

1 IN THE UNITED STATES DISTRICT COURT

2 FOR THE DISTRICT OF OREGON

3 PORTLAND DIVISION

4 UNITED STATES OF AMERICA,) 3:12-cv-02265-SI

5 Plaintiff,)

6 v.)

7 April 19, 2018

8 THE CITY OF PORTLAND,)

9 Defendant.)

Portland, Oregon

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13 (Status Conference)

14 TRANSCRIPT OF PROCEEDINGS

15 BEFORE THE HONORABLE MICHAEL H. SIMON

16 UNITED STATES DISTRICT COURT JUDGE
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(April 19, 2018)

P R O C E E D I N G S

(Open court:)

THE CLERK: Your Honor, this is a time set for a fairness hearing and third annual conference in case 12-2265-SI, USA versus City of Portland.

Could I have counsel, beginning with plaintiff, please identify yourselves for the record.

MR. HAGER: Jared Hager for the United States, Your Honor.

MR. GEISSLER: Jonas Geissler for the United States, Your Honor.

MS. COWALL: Laura Cowall also for the United States.

MS. REEVE: Tracy Reeve for the City of Portland.

MR. VANNIER: Denis Vannier for the City of Portland, Your Honor.

MR. AMBERG: Mark Amberg for the City of Portland.

MR. KARIA: Good morning, Your Honor. Anil Karia for Portland Police Association.

MS. CHAMBERS: Good morning, Your Honor. Kristen Chambers for AMAC. Also with me is Ashlee Albies.

THE COURT: And do you wish to introduce your client representative that's at counsel table?

MS. CHAMBERS: Yes. This is Dr. LeRoy Haines.

1 DR. HAINES: Good morning, sir.

2 THE COURT: Good morning, Dr. Haines.

3 MS. CHAMBERS: And also the other cochair, is
4 Dr. Bethel.

5 THE COURT: Good morning, Dr. Bethel.

6 All right. Good morning to everyone here. We are
7 here for two purposes primarily. This is the fairness hearing
8 on the pending joint motion of the parties -- stipulated
9 motion -- to enter an amendment to the settlement agreement,
10 and we are here for our periodic status conference on the state
11 of the settlement.

12 I also want to begin by acknowledging an interesting
13 coincidence. It really is pure coincidence. Going on in this
14 building in about 25 minutes, starting at 9:30 this morning,
15 frankly, one floor above us in the ceremonial courtroom on the
16 sixteenth floor is the naturalization ceremony that the
17 District Court of Oregon runs to administer the oath and to
18 welcome all of the new citizens to the United States.

19 These are folks that came here legally, that worked
20 hard, that studied diligently for their examinations, have
21 passed their examinations and all other requirements, and this
22 morning a number of them are being admitted as new citizens to
23 the United States.

24 I don't know if any of you have attended any of these
25 naturalization ceremonies. I think if you have, you will

1 appreciate and agree with what I'm about to say. And if you
2 haven't, I really encourage you to do that. It is an amazing
3 and moving experience. These are folks that have come from all
4 over the world, including from countries that are not
5 democracies, either in fact or even in name, and they have
6 decided that for a better life, they want to live in the
7 United States.

8 They understand that we have our problems here as
9 well, but they have affirmatively chosen the United States as
10 their new adopted home and have worked hard to become citizens,
11 with full recognition of the strength and weaknesses that we
12 offer. Sometimes I don't think we all necessarily appreciate
13 what it is to live in a democratic, constitutional republic
14 with the freedoms that we have.

15 Now, I do know that we have our weaknesses as well.
16 We have our problems as well. You all know it, and my guess is
17 by your participation here, you are going to share with me some
18 of the weaknesses that you are aware of. We all recognize
19 that.

20 But we should never lose sight of the fact that we do
21 have an awful lot of positive features with our system of
22 democratic constitutional republic, our system of
23 self-governance. And as imperfect as it is, as noisy as it is,
24 sometimes as frustrating or as disappointing as it is, it is
25 still a model for the rest of the world that welcomes and

1 invites new citizens to come here. And I think we all need to
2 keep that in appropriate perspective. Lest you have any
3 disagreement about that, I invite you to go to the
4 sixteenth floor and meet some of the new citizens and their
5 families and ask them: Why did you come here? Why did you
6 want to be a citizen of the United States?

7 All right. Enough said about that.

8 I have reviewed all of the papers that have been
9 submitted to me. I do want to acknowledge that I have received
10 some papers in writing relevant to today's proceedings. I
11 think I have shared them all with counsel for all of the
12 parties. But in case I haven't, let me identify them for you,
13 and then at the appropriate time you may obtain copies of them
14 from my courtroom deputy, Ms. Austad.

15 I have received from the League of Women Voters a
16 memorandum dated April 17th, 2018.

17 I have received from Ms. Ann Brayfield an email dated
18 April 17th, 2018.

19 I have received from Ms. Kalei Luyben an email dated
20 April 18th, 2018.

21 I have received from MentalHealthPortland.org a
22 letter in email form with attachments, and that's dated
23 April 13th, 2018.

24 That is all that I have received in advance other
25 than the filings of the parties. I have read all of that. If

1 you have sent me something that I have not identified and
2 you're not a party, that means that I haven't received it or it
3 hasn't come to my attention, and I invite you to resend it.
4 Please do, if you can, and copy all of the parties. But if you
5 can't, I'll ask my courtroom deputy to do that.

6 Counsel for all four parties, if you don't have
7 copies of those items, as I said, just ask my courtroom deputy.

8 There has been a joint request for an agenda. That
9 is Docket 165. I have adopted that. According to that joint
10 agenda, I'm beginning with my introductory comments, and they
11 are almost over. So you've been hearing them.

12 In a few moments we will turn to a presentation by
13 the United States for up to ten minutes, primarily to explain
14 the amendments and to state their positions on the fairness of
15 the amendments; followed by a presentation by the City, up to
16 ten minutes, same topics; followed by a presentation by
17 Portland Police Authority, up to ten minutes; followed by a
18 presentation by the Albina Ministerial Alliance Coalition, also
19 for up to ten minutes.

20 Then the public testimony portion of the fairness
21 hearing will begin. We will have an appropriate break.

22 Let me ask the City first. I understand that the
23 Mayor would like to speak as of the proceedings today.

24 Welcome, Mayor.

25 Does the Mayor wish to speak as part of the City's

1 opening presentation or at the beginning of the public
2 testimony? Any preferences?

3 MS. REEVE: Your Honor, we anticipated that the Mayor
4 would speak at the beginning of the public portion.

5 THE COURT: That's fine. Because I want to
6 accommodate the Mayor's schedule, if there are issues, perhaps
7 what we should do is hear the Mayor's comments first and then
8 take a break.

9 You're shaking your head yes, so we will do it that
10 way.

11 In addition, some of you may know that we had a
12 sign-up sheet that was already circulating this morning. Two
13 law students who are assisting me this semester as very capable
14 externs are in the courtroom.

15 Andrew and Cody, please stand. If you have already
16 given your name to Andrew or Cody, I have you on a list of
17 public comment requesters. I have Debbie Aiona, Carol Cushman,
18 Lightning, Mimi German. I have four people who want to speak
19 collectively. Regina Hamm (phonetic), Dan Handelman, Philip
20 Cacha, and Michael Schumann. Those are the only names that I
21 have.

22 So if you do want to provide public comment during
23 the public testimony portion, will you please either now or
24 relatively soon, no later than our break, go to the back of the
25 courtroom and give your name to either Cody or to Andrew, who

1 will put it on a supplemental list that will be given to me.

2 I also want to announce, I know that some members of
3 the media have requested the opportunity to take notes on a
4 laptop. I have given my approval to that. I do ask that if
5 anyone is going to be typing on a laptop or a similar-type
6 device, please turn off the clicking sound. My primary concern
7 is to ensure that we don't have a distraction or disruption of
8 whoever is giving me comments orally. So you're welcome to
9 type. You're welcome to post what you want to post, but please
10 don't disrupt other people. So please turn off clicking
11 sounds.

12 Relatedly, although I have some authority, I don't
13 have a lot of authority, and I have no authority to allow the
14 audio or audio-visual recording. That is dictated by the
15 policies of the administrative courts of the United States. We
16 follow that here. No one is allowed to engage in any audio or
17 audio-video recording, with the sole exception of our official
18 court reporter, who is taking down everything that will be said
19 during this hearing.

20 So that takes care of my preliminaries.

21 At this time I invite presentation by the
22 United States.

23 MR. HAGER: Thank you, Your Honor. I ask the Court
24 for leave to give my remarks sitting as an accommodation.

25 THE COURT: Of course. Everyone is certainly welcome

1 to give their remarks either seated or standing, whatever you
2 all wish.

3 MR. HAGER: Thank you, Your Honor.

4 Jared Hager on behalf of the United States. I am
5 here with my colleagues at counsel table, Jonas Geissler and
6 Laura Cowall. We are joined behind us by the United States
7 Attorney for the District of Oregon, Bill Williams.

8 THE COURT: Welcome, sir.

9 MR. HAGER: And chief of the civil division, Renata
10 Gowie. In the jury box, we have Chief Charlie Reynolds, who is
11 our police practices expert. He was former president of the
12 International Association of Chiefs of Police, and he was also
13 a mayor.

14 At the outset, Your Honor, I would like to remind the
15 Court and the public this case is managed for the United States
16 on a day-to-day basis by the career attorneys of the Department
17 of Justice. We aren't driven by political ideology or personal
18 creed, except for an undying commitment to enforce the rule of
19 law. We are committed to monitoring the City's compliance with
20 the settlement agreement and representing the public interest
21 in constitutional policing.

22 Now, the parties anticipated the need for amendment
23 when we entered the settlement agreement. The amendments are
24 before the Court, pursuant to that process, and that process
25 has already been adjudged as fair, adequate, and reasonable.

1 Portland City Council approved these amendments by a
2 five-to-zero vote after multiple public hearings, multiple
3 public comments, and substantial revision to the proposed
4 amendments in response to those comments. The United States
5 agreed to the changes, finding them necessary to overcome
6 obstacles to compliance that were unforeseen. We've also found
7 them to be consistent with the principles embodied by the
8 agreement. The PPA and the AMAC have stipulated to entering
9 the amendment as a path forward to implementing the goals of
10 the agreement.

11 In sum, Your Honor, the joint motion is the product
12 of a negotiated solution to problems that arose in this case
13 and to implementing the goals of the settlement agreement. As
14 part of that solution, we have also asked the Court for a
15 standing order of reference to the Ninth Circuit Mediation
16 Program in the case that future disputes arise. The AMAC, the
17 PPA, the City of Portland, or the United States would be
18 allowed to invoke those provisions to allow for mediation.

19 After this hearing, if Your Honor is inclined to deny
20 the motion, we would ask to be able to supplement the record,
21 as necessary, to satisfy the Court.

22 Mr. Geissler and I will speak briefly about each of
23 the six amendments. Mr. Geissler is going to discuss changes
24 related to the Employee Information System, or EIS, the Citizen
25 Review Committee, and accountability. I am going to address

1 the other three.

2 First, requirements in lethal force cases. The use
3 of lethal force is the most consequential power granted to law
4 enforcement. Effective and just accountability procedures are
5 paramount in those cases. The proposed amendment would add a
6 new paragraph 69C to substitute in lethal force cases the
7 tailored requirement of revised directive 1010.10 for what the
8 agreement currently requires in all other force cases.
9 Paragraphs 69 and 70 lay out those requirements as they relate
10 to witness officers, involved officers, and supervisors.

11 Now, the need for the amendment arises from unique
12 aspects of Oregon state law that prevented the City from
13 implementing paragraphs 69 and 70 in a couple of respects as
14 they relate to involved officers. The amendment does not
15 change any requirement as to witness officers.

16 Specifically the Multnomah County District Attorney
17 has statutory control over criminal investigations. There is
18 also Oregon state law that endorses the idea of transactional
19 immunity as a remedy for violating the state constitutional
20 rights against self-incrimination.

21 State law also suggests that a wall between
22 administrative and criminal investigations might be inadequate
23 to protect the right against self-incrimination. The proposed
24 amendment would accommodate that concern, for one, having an
25 established wall, based on revised standard operating

1 procedures, to allow for information from the involved officer
2 to be obtained while respecting the District Attorney's concern
3 about the risk against tainting the criminal investigation.

4 The original agreement also proved impractical in
5 lethal force cases as to supervisors. The scenes of
6 officer-involved shootings and other lethal-force events are
7 controlled by homicide detectives engaging in the criminal
8 investigation and internal affairs officers handling the
9 administrative investigation. The agreement requires, at
10 paragraph 70, that line supervisors handle the after-action
11 review of all force cases, but that was impractical in these
12 special lethal-force cases.

13 Now, the United States has examined the revised
14 directive carefully, including the standard operating
15 procedures, and we believe that they fairly balance legitimate
16 competing interests and don't sacrifice accountability.
17 Specifically the revised directives maintain parallel criminal
18 and administrative investigations. It ensures that information
19 is obtained at the scene from both involved officers and
20 witness officers to protect public safety. It requires
21 Internal Affairs to interview the involved officer within 48
22 hours, and it ensures that 1010.10 investigations capture the
23 same information as required by the current force and
24 after-action reports that involved officers and supervisors
25 fill out.

1 The second change I would like to discuss is to COCL
2 reporting. The amendment to paragraph 159 would allow the COCL
3 to issue focused quarterly reports rather than having to report
4 on every substantive topic every quarter. The flexibility is
5 designed to list greater depth of analysis on particular topics
6 and particular paragraphs where compliance issues remain.

7 We believe it will make the COCL reports more
8 accessible to the public and more useful to the City, and the
9 COCL would still report on all substantive areas of the
10 settlement agreement over the year. Of course, we would also
11 continue to monitor all areas of the agreement on an ongoing
12 basis.

13 However, the United States has seen this more focused
14 approach work well in other jurisdictions where we have police
15 reform cases, including New Orleans. Basically it improves
16 monitoring, consultation, and technical assistance by targeting
17 a narrow range of open issues as the case progresses.

18 The last amendment I would like to address is to the
19 community engagement framework. The amendment changes
20 Section IX of the agreement to substitute the Portland
21 Committee on Community-Engaged Policing for the Community
22 Oversight Advisory Board. The original framework was not
23 achieving the agreement's goals, and as the COCL testified at
24 the last status conference, the COAB, as conceived and
25 executed, simply didn't work.

1 The City's proposal addresses problems while
2 preserving the defining characteristics of the COAB, including
3 its mission to independently assess the implementation of the
4 settlement agreement. Also, it preserves the mandatory
5 engagement of the community and regular public meetings and
6 quarterly town halls. It allows the new body to report to the
7 Court at status conferences.

8 The committee also improves upon the existing
9 framework by giving it the flexibility to set its own agenda
10 within a broad scope of work. It is not limited by the
11 settlement agreement, although it certainly covers the
12 settlement agreement. It also details the necessary
13 orientation and training activity and clarifies the City's
14 support role, including imposing hard timelines to respond to
15 recommendations and requests for information. Importantly, it
16 also allows the new body to select its own chair and divorces
17 it from the oversight of the community -- the compliance
18 officer community liaison.

19 Finally, it is designed to outlive the settlement
20 agreement. Whereas the COAB would have terminated upon
21 compliance with the settlement agreement, this new body will
22 outlive it. The City has put forth a substantial good-faith
23 effort into the PCCEP plan, and the United States supports it.

24 To the extent there is any limitation, I want to
25 remind the Court and the public that the United States would

1 still monitor the implementation and verify the performance of
2 the new body as it relates to community engagement.

3 I'll now turn it over to Mr. Geissler for the other
4 three amendments.

5 THE COURT: Thank you, Mr. Hager.

6 Welcome, Mr. Geissler.

7 MR. GEISSLER: Thank you, Your Honor. May I take the
8 podium?

9 THE COURT: Wherever you wish.

10 MR. GEISSLER: If it please the Court, Your Honor, as
11 my colleague set forth, I will address EIS, stipulated
12 discipline, and CRC appeal timelines.

13 EIS, as Your Honor will recall, is the Employee
14 Information System. It is intended to help PPB identify
15 officers and supervisors units that are outliers in relation to
16 their peers --

17 THE COURT: Mr. Geissler, may I interrupt? May I ask
18 you to speak a bit more slowly.

19 MR. GEISSLER: Yes, Your Honor.

20 Principally with respect to use of force.

21 EIS seems to mitigate risk of poor outcomes before
22 those outcomes occur. Paragraph 73 of our settlement agreement
23 addresses EIS. Therein, the settlement agreement required that
24 all comments -- all comments identified in after-action reviews
25 of uses of force, previously called 940 reports, be entered

1 into the EIS. This language was over-conclusive.

2 In implementation, it created an administrative
3 burden, and that burden both diluted the meaningful comments
4 that were in the EIS and created an anxiety among the officers
5 that mere ministerial comments, things like failure to check a
6 box, would lead to poor performance appraisals in the future.

7 Accordingly, DOJ supports the simple change to
8 paragraph 73 to record in EIS only the material findings from
9 after-action reports into the EIS system. This would affect
10 the settlement agreement, as intended, to make the EIS more
11 effective.

12 Additionally, with respect to EIS, Your Honor, we
13 observe that PPB's fluid command structure and an officer's
14 multiple assignments made the EIS, as it currently exists,
15 impractical for comparison between supervisors and command
16 groups, as required by paragraph 117 currently.

17 One patrol officer is subject to the supervision of
18 three different sergeants with rotating schedules. An officer
19 in the training division may also work as a patrol officer and
20 thus be subject to both two groups and two sets of supervisors.
21 Likewise, an officer that spends time on the Rapid Response
22 Team may spend part of their time under one supervisor in one
23 group and the rest of their time at a desk or on patrol
24 assignment.

25 Accordingly, PPB proposed, and we carefully

1 considered conducting comparisons between supervisors and
2 commands groups utilizing PPB's force audit data. That is both
3 the qualitative assessment of trends in the data and the
4 quantifiable accounting of the types of uses of force, and they
5 would do so in place of using the EIS. Take note, however,
6 that even with the proposed change, individual officers and
7 supervisors would still be tracked in the EIS as they are now.
8 The proposed change would allow PPB to use the force audit data
9 prepared pursuant to paragraphs 74 through 77 to find outliers
10 in comparing groups and commands.

11 With respect to stipulated discipline, Your Honor,
12 our monitoring has shown that some administrative
13 investigations of alleged officer misconduct consume resources
14 and time that slow the entire PPB accountability system, when
15 some of those cases could be resolved more expeditiously.

16 Among these cases are ones in which the officer is
17 willing to admit that they have committed an infraction and
18 willing to accept discipline. Accordingly, the City has
19 proposed, and we support the use of a stipulated discipline
20 process with a new paragraph 131D.

21 Note, however, that the proposed change builds in a
22 substantial supervisory and civilian safeguard. There must be
23 findings. The Independent Police Review, or IPR, and Internal
24 Affairs, IA, and the RU, the Responsibility Unit, all must
25 agree on the findings. And in certain cases like excessive

1 force or disparate treatment, those types of allegations would
2 not be eligible for stipulated discipline.

3 In all cases the chief and the mayor would have the
4 ability to veto the use of stipulated discipline and require
5 the usual process.

6 This brings an efficiency to the accountability
7 system, but more than efficiency, Your Honor, stipulated
8 discipline brings a definitive closure to the allegation. This
9 is to the benefit of both the officer and the community to not
10 have to wade through an elongated and uncertain process.

11 The final change, Your Honor, removal of the CRC
12 timelines. The Citizen Review Committee is the final appeal
13 process in only a handful of cases from the accountability
14 system. This is a rather straightforward amendment. The
15 settlement agreement requires a 180-day timeline for all
16 accountability allegations, from the initial allegation to the
17 final.

18 It is not a surprising change in that the Court has
19 previously heard in prior hearings about the desire to remove
20 CRC from the 180-day timeline. Preserving CRC, however, is
21 important to Portland's ethic. It is a public process with
22 community involvement and transparency.

23 While CRC only hears a handful of cases a year, these
24 cases can be removed from the 180-day timeline, allowed a
25 reasonable time within which the appeal to be heard, and still

1 preserve the 180-day timeline for the vast majority of cases
2 that will not reach the CRC.

3 Thank you, Your Honor.

4 THE COURT: Thank you, Mr. Geissler.

5 Next I would like to hear from Defendant City of
6 Portland.

7 MR. VANNIER: Thank you, Your Honor.

8 Good morning.

9 THE COURT: Good morning.

10 MR. VANNIER: The amendments that are before you
11 today represent the culmination of many months of discussions
12 and negotiations between the United States, the City, the PPA,
13 and the AMAC. And it says a lot. It says really a huge
14 amount; that all four participants in that process support
15 those amendments and are asking Your Honor to implement them.

16 The AMAC deserves a special thanks for its part, its
17 crucial role in that process. Throughout the discussions
18 leading to the package of amendments that is before you today,
19 AMAC was a forceful advocate for a package that continues to
20 fulfill the purposes of the settlement agreement and for
21 effective community engagement. The PCCEP plan, in particular,
22 changed significantly from its initial framework to the
23 framework before you today due to AMAC's input. So I do want
24 to thank the AMAC for its support of these amendments.

25 The City adopts the arguments already made by the

1 United States, so I won't repeat those here. Instead I want to
2 focus on two amendments to the settlement agreement that are
3 before Your Honor today.

4 The first one is paragraph 69C, which, as the
5 United States noted, is the new paragraph dealing with
6 investigations of officer-involved shootings. At this point I
7 want to acknowledge -- I think the fact which we are all aware
8 that just a little over a week ago there was a tragic
9 officer-involved shooting in the city, and I want to point out
10 that paragraph 69C and new directive 1010.10 are the reason why
11 the City cannot/will not comment publicly about that tragedy is
12 because this new paragraph is designed to protect the integrity
13 of concurrent Internal Affairs investigations and criminal
14 investigations. So I wanted to note that for the record and
15 for the members of the public here today.

16 The second set of amendments before Your Honor today
17 are obviously the changes to Section IX, which are replacing
18 the COAB with the PCCEP. I want to make a few points, to
19 highlight the fact that the PCCEP is not intended to be a
20 watered-down version of the COAB. It is in fact intended to be
21 a meaningful vehicle for a community engagement that, as the
22 United States noted, is intended to last beyond the pendency of
23 the settlement agreement.

24 So key changes from the prior COAB structure that
25 will hopefully render the PCCEP even more effective are:

1 First, more clarity as to the scope of the work.

2 More training.

3 A simplified appointment process.

4 A separation between the COCL and the community
5 engagement body, which, as Your Honor will recall, was an issue
6 with COAB.

7 A smaller, more nimble body with no standing Police
8 Bureau Advisory Members, which, again, as Your Honor will
9 recall, had been a concern, at least from some prior COAB
10 members.

11 A structure that requires regular public meetings,
12 yet also permits the commission to conduct some work in
13 meetings that are not open to the public if that body so
14 decides. But I want to emphasize that the framework that is
15 before Your Honor today requires that most meetings have to be
16 open to the public and that even if the PCCEP on its own
17 authority decides to hold a meeting that is not open to the
18 public, the minutes of those meetings have to be posted and be
19 made public.

20 As the United States also alluded to, this plan
21 allows for greater agenda-setting authority by the body itself,
22 which, again, was an issue with the COAB as previously framed.

23 There is a more clearly defined set of deliverables.

24 More clarity as to how the body is to interact with
25 the City.

1 Staff support to be provided by the City and an
2 obligation on the part of the City to respond in writing to the
3 written recommendations of the PCCEP.

4 And finally, greater accountability for and to the
5 body through its placement within the Mayor/Police
6 Commissioner's Office.

7 I also want to highlight the fact that the amendments
8 would provide more clarity in that the PCCEP may, should it
9 choose to do so, facilitate community oversight of the City's
10 compliance with the settlement agreement.

11 One last point. Obviously these amendments have not
12 become effective, and yet I want to assure Your Honor that the
13 City is committed, if and when this package is approved, to get
14 this body seated and started as soon as practicable.

15 There is a selection advisory committee for the PCCEP
16 that has in fact already met. That selection advisory
17 committee was constituted with input from the AMAC and
18 obviously from the United States and the PPA as well.

19 The AMAC and the other parties have also provided
20 input on an application package, so obviously we have not moved
21 forward with that. But I wanted to assure Your Honor and the
22 public that the City is committed, if and when these amendments
23 are approved, to getting this body started as soon as possible.

24 So in short, for those reasons, and the reasons
25 discussed by the United States, these amendments are necessary

1 to achieve and sustain the outcomes that were intended under
2 the original settlement agreement. For that reason, we ask
3 Your Honor to enter that amended settlement agreement.

4 Thank you.

5 THE COURT: Thank you, Mr. Vannier.

6 Next, I would like to hear from the Portland Police
7 Association. Mr. Karia.

8 MR. KARIA: Thank you, Your Honor. I actually have
9 nothing to add beyond what the United States and the City have
10 eloquently laid out with respect to the six stipulated
11 amendments beyond the fact that PPA fully supports entry of
12 those amendments.

13 Thank you.

14 THE COURT: Thank you, Karia.

15 Next, I would like to hear from the Albina
16 Ministerial Alliance Coalition for Justice and Police Reform.

17 Welcome, Ms. Chambers.

18 MS. CHAMBERS: Thank you, Your Honor.

19 The AMAC has joined in this motion to amend the
20 settlement agreement as a path going forward. The AMAC was
21 very clear in that particular language because it has been over
22 a year since there has been any community oversight of the
23 settlement agreement and any organized community involvement in
24 this process. The AMAC has concluded that we can no longer
25 continue going forward with meetings behind closed doors to try

1 to continue to come up with a better proposal and that it's
2 necessary to have some level of community involvement as soon
3 as possible.

4 So today you are going to hear a little bit about
5 some critiques that AMAC has of the settlement agreement
6 amendments, and these critiques were specifically part of the
7 AMAC's agreement to the motion to amend.

8 THE COURT: I'll tell you that I have read quite
9 closely -- I have read closely everything -- but I read quite
10 closely your letter dated October 20th, 2017, attached as
11 Exhibit C to the motion, and I do see that there are a number
12 of concerns for the amendments held by the AMAC. But if I'm
13 correctly reading it and correctly hearing you now,
14 notwithstanding those concerns, the AMAC is urging that I
15 approve these amendments; am I correct?

16 MS. CHAMBERS: Correct, Your Honor.

17 THE COURT: Please proceed.

18 MS. CHAMBERS: Thank you for pointing that out. That
19 letter clearly states that the AMAC is supporting these
20 amendments going forward, but wanted to carve out the
21 opportunity to share with the Court and the public some of the
22 struggles and issues that have occurred and a lot of which were
23 bound by confidentiality, and so there has been very little
24 process for community involvement in the airing of those
25 particular concerns.

1 So if it is okay with the Court, I would like to ask
2 that the two co-chairs of the AMAC give a little bit more
3 information about the AMAC's position.

4 Is that okay?

5 THE COURT: It is more than okay.

6 MS. CHAMBERS: So I would like to turn it over first
7 to Dr. Haines.

8 THE COURT: Dr. Haines and Dr. Bethel always have
9 valuable input to provide.

10 DR. HAINES: To the Honorable and Distinguished Judge
11 Michael Simon, my name is Dr. LeRoy Haines, Junior, chairperson
12 of the Albina Coalition for Justice and Police Reform.

13 We will split up our presentation. I am going to do
14 some introductory remarks, and Dr. Bethel will come in with
15 more specifics.

16 Honorable Judge Michael, coming to these amendments
17 has been a long, arduous process. After 433 days, the City
18 dismantled the COAB over AMAC's objection. As a saying, we say
19 sometimes in Texas, "Don't throw the baby out with the water;
20 clean the water up."

21 The parties met for months, and AMAC provided a
22 revised COAB proposal that provided for more guidance,
23 resources, and support to the COAB members. Rather than
24 provide a response to AMAC's proposal, the City chose to appeal
25 and challenge this Court's authority to hold a status

1 conference.

2 The City used the appellate mediation process in the
3 beginning to exclude AMAC and met with DOJ and PPA to come up
4 with a new proposal. Once AMAC was allowed into this process
5 in the latter stage, and there was little opportunity to really
6 do significant and meaningful input, just as with the original
7 settlement agreement, AMAC made numerous other recommendations
8 of amendments to the settlement agreement that were not
9 incorporated in the former proposal.

10 AMAC believed that the proposed amendments to the
11 settlement agreement are weaker in some parts, compared to what
12 already had been in the original agreement. However, Judge
13 Michael, due to the fact that there has been no community board
14 meetings for over a year, and people are still dying on our
15 streets here in Portland through police action, AMAC has agreed
16 that the settlement agreement amendment should move forward as
17 a path to get the community forward with the reform of the
18 Portland Police Bureau.

19 Thank you very much, Judge. Dr. Bethel at this time
20 would like to speak.

21 THE COURT: Thank you very much, Dr. Haines.

22 Dr. Bethel, welcome.

23 DR. BETHEL: Good morning, Judge Simon. A moment of
24 reflection -- for the record, Dr. T. Allen Bethel, President of
25 Albina Ministerial Alliance, co-chairperson for Albina

1 Ministerial Coalition for Police Reform and Justice.

2 At the last status conference in October 2016, the
3 City had just approved a new collective bargaining agreement
4 with the Portland Police Association bargain mid-contract. The
5 City was always surrounded by police, keeping out the
6 community, many who objected to the CBA and the process by
7 which it was negotiated.

8 At the last status conference, the remaining COAB
9 members proposed an independent monitor over the settlement
10 agreement. At that time the AMA Coalition's role and sole
11 objection was that such a monitoring might diminish or replace
12 community oversight and was rooted in our belief that those
13 impacted by the settlement agreement, the community police by
14 the Portland Police Bureau, must play a role in its oversight
15 and implementation.

16 Now, here we are two years later. We have had no
17 community oversight in the meantime. The proposed changes to
18 the agreement that extinguish the COAB and replace it with the
19 PCCEP. The PCCEP, however, is not a true replacement for the
20 COAB, which had no authority to review implementation of the
21 settlement agreement and had some measure of independence from
22 the City.

23 While AMAC recognizes that there were challenges with
24 the COAB, we did not see those challenges as insurmountable.
25 We note a few concerns about the PCCEP so that the Court and

1 community can keep a careful eye on these issues, just as we
2 will.

3 The PCCEP structure is not part of the settlement
4 agreement, meaning that the parties can change it without
5 "approval." But the board members are chosen by the Mayor,
6 with some assistance from community members, also chosen by the
7 Mayor. In comparison, the COAB members were chosen by a
8 diverse community panel. The PCCEP board is smaller than COAB,
9 leaving fewer opportunities for a board that represents
10 Portland's many diverse communities.

11 The COAB meetings were open to the public, whereas
12 PCCEP will be mostly held in private and some in public. The
13 focus the PCCEP is narrower than the COAB, with less emphasis
14 on oversight of the implementation the settlement agreement.

15 Now, due to these concerns, AMAC asks for certain
16 interpretations that were expressed by the Mayor to be
17 memorialized to help guide PCCEP. See Docket No. 157-3, 157-4,
18 and those are:

19 No. 1. PCCEP members will have the authority to
20 independently assess the implementation of the settlement
21 agreement.

22 PCCEP may report to this court at the annual status
23 conference in the event of a status conference occurring.
24 PCCEP may report to Judge Simon at those as well.

25 No. 3. Eleven members will be appointed to the

1 initial PCCEP.

2 4. PCCEP may change its name.

3 5. The City will provide community organizing
4 staffing for PCCEP, if economically feasible.

5 6. Any written updates, reports provided by PCCEP to
6 the Mayor will be posted on social media and the City's
7 website.

8 7 and final. PCCEP may perform work, in addition to
9 the work of the community engagement plan.

10 Although the PCCEP is not as robust as the COAB had
11 potential to be, because we can no longer be without community
12 oversight 443 days today, the AMAC agrees to the PCCEP as a
13 path forward.

14 At this time I will turn it back over to our counsel
15 for their closing remarks.

16 Thank you, Your Honor

17 THE COURT: Thank you, Dr. Bethel.

18 And I will point out that I note shortly after those
19 seven points were identified and described in Ms. Chambers'
20 letter of October 20th, I received a letter or rather you
21 supplied to me a letter from Portland City Attorney Ms. Reeve
22 dated November 21st, 2017, agreeing on behalf of the Mayor to
23 each of those seven points.

24 MS. CHAMBERS: That is correct, Your Honor.

25 THE COURT: Ms. Chambers.

1 MS. CHAMBERS: I have no further comments, unless you
2 have any questions.

3 THE COURT: You know, I do have a question, but I
4 think I am going to put it in the form right now of a question
5 to which I'm not going to ask for an immediate response from
6 you or from anyone else, but just something to think about,
7 including as we hear from the public testimony.

8 You are welcome to be seated.

9 That is this: I do see that this is a joint motion
10 to enter these amendments to the settlement agreement. I do
11 see, as I've described, that AMAC has identified a number of
12 serious concerns, including, as you've identified in the
13 letter, as Dr. Bethel has just described. But on balance, as
14 you've confirmed, the AMAC is urging that I adopt and accept
15 these proposed amendments, notwithstanding these concerns, if
16 you will, with a trust that these amendments are better than
17 the status quo, but still with concerns about how they may
18 develop.

19 I have read everything that you all and the public
20 has submitted to me that I have already identified. I
21 understand the basis for these concerns. I think I do
22 tentatively agree, although I want to hear from the public
23 during the public testimony portion, that on balance these
24 amendments are probably better than the status quo. We know
25 that the status quo has the settlement currently in violation,

1 for no other basis than the COAB problem, and so we're
2 currently in violation.

3 But under the settlement agreement that I have
4 already approved, the only person -- really, the only entity
5 that can do anything about this violation of the settlement
6 agreement is the plaintiff, the United States.

7 Only if the plaintiff files a motion to enforce the
8 settlement does the Court have any authority to act. If the
9 plaintiff moves to enforce the settlement agreement on the
10 grounds that it is being violated, we will hold a hearing. We
11 will determine the defendant's position on this. And at the
12 appropriate time, I'll make a ruling on that motion to enforce.
13 Then we will also talk about, either sequentially or
14 contemporaneously, an appropriate remedy for that violation.
15 But I can't do any of that unless and until the United States
16 has filed a motion to enforce the settlement agreement, which
17 at least to date they have not done.

18 So instead, as our alternative, we have these
19 proposed amendments that, if everything works well, will be a
20 significant step forward, I believe, not without risk and not
21 without some drawbacks.

22 So that is a very long-winded introduction to my
23 question, and I'm not going to ask for a response to the
24 question from the parties right now. I will take it probably
25 after I hear public testimony, and I would also very much

1 appreciate on the public testimony side any reactions and
2 responses to this question as well as anything else that anyone
3 wishes to give.

4 Here is the question: Rather than simply adopt and
5 accept the proposed amendments to the settlement agreement and
6 rather than simply reject the proposed amendments to the
7 settlement agreement, should I provisionally or conditionally
8 accept the proposed amendments to the settlement agreement,
9 hold another hearing and/or status conference, with input from
10 the parties and input from the public approximately six months
11 from now, and if we find that things are going well, that the
12 PCCEP is going according to plan, is functioning well according
13 to its design, is having appropriate communications with and
14 from the public, then I would anticipate giving final approval
15 to the amendments at that time.

16 And obviously if we learn in the next six months that
17 the settlement amendments are not proceeding as planned, that
18 they were either foreseen or unforeseen problems with them,
19 then we can talk at that time about what to do.

20 So bottom line question is: I think I have before me
21 really three options, because I do not have authority, if you
22 will, to engage in a type of line item veto or line item edit
23 of the settlement agreement. I think my only authority is to
24 approve the amendments, as approved, or reject the amendments,
25 as proposed, or to provisionally and conditionally accept them,

1 subject to a further hearing in approximately six months to see
2 how they are going.

3 I would appreciate the parties giving some thought to
4 that, letting me know later today what your reactions and
5 opinions to that would be and, as I said, hearing from any
6 public members.

7 Now, I think it is now time to begin turn to the
8 public testimony portion of this. I will reiterate for some of
9 the folks that have come after I began that that I'm going to
10 hear next from Mayor Wheeler as part of the public testimony,
11 as part of the fairness process, and then we will be taking a
12 short recess.

13 During this recess if there are any members of the
14 public who wish to provide testimony, and you haven't already
15 given your names to the sign-in sheet -- let me ask Andrew and
16 Cody to stand up one more time. There is Cody. Is Andrew
17 here? No. At least go to Cody then during our recess. Give
18 your name to Cody promptly during the recess, indicating that
19 you would like to give public comment during the public
20 testimony portion of this hearing.

21 Then, Cody, as soon as you get that list, bring it
22 back to me in chambers before the end of the recess, and then
23 we will resume with public testimony per your sign-up.

24 At this time I welcome and look forward to any
25 comments that Mayor Wheeler might wish to offer.

1 Welcome, Mayor. You may speak from wherever you
2 wish.

3 MAYOR WHEELER: Thank you, Your Honor. I will just
4 take the podium.

5 Thank you, Judge Simon, for accommodating my schedule
6 and allowing me to take a few moments here first. I,
7 unfortunately, have budget meetings today, which require my
8 presence and attention. But I did not want to let the
9 opportunity pass to thank and acknowledge the fine work of all
10 of the partners and those here today who have worked hard to
11 bring the City closer to meeting the goals of the settlement
12 agreement between the City and the United States Department of
13 Justice.

14 First, I would also like to add my sincere thanks to
15 the Albina Ministerial Alliance for Justice and Police Reform
16 for their involvement, as enhanced amicus in this particular
17 case, and for their long-time advocacy and hard work towards
18 justice and police reform in our community.

19 The AMAC has advocated eloquently for community
20 oversight of the police and for meaningful engagement between
21 the Portland Police Bureau and the community. These are goals
22 that I want you to know I personally strongly share and that
23 the City of Portland shares.

24 The AMAC's expertise and input have been invaluable
25 in informing the City about community concerns. The City, with

1 significant input from AMAC and other parties to the agreement
2 in the broader community, have fashioned what we believe will
3 be a successful and new community oversight engagement body.
4 This is, of course, the PCCEP. You have heard a lot about the
5 PCCEP already this morning, so I won't belabor it.

6 I will just say that we agree that we need a
7 mechanism for community oversight and engagement that endures
8 well after compliance with the settlement agreement is
9 achieved. The COCL and the DOJ at some point will no longer be
10 involved in monitoring the City's performance. This PCCEP can
11 continue to be a voice for the community and a mechanism for
12 community oversight, not only in the present, but also well
13 into the future.

14 I would also like to thank the USDOJ, the COCL team,
15 the Albina Ministerial Alliance, the Portland Police
16 Association, the auditor, the Independent Police Review,
17 members of my own staff, and the Multnomah County District
18 Attorney's Office, each of whom have played a significant role
19 in overhauling the Bureau's accountability system and our
20 use-of-force policies and procedures.

21 You also heard this morning, Your Honor, about
22 directive 1010.10. It will ensure that police officers are
23 interviewed within 48 hours after the use of deadly force in
24 order to also preserve the District Attorney's ability to
25 conduct criminal and death investigations and criminally

1 prosecute should that be warranted. The City worked very
2 closely with the District Attorney, the U.S. Department of
3 Justice, the PPA to craft standard operating procedures that
4 would keep the internal administrative investigation wholly
5 separate from the criminal investigation.

6 As you also heard, and I have to say this,
7 unfortunately, we have a current need for the implementation of
8 Directive 1010.10 and the standard operating procedures. As
9 you know, we did have a fatal officer-involved shooting just
10 over a week ago. I want you to know and underscore Directive
11 1010.10 is being applied and is guiding the City's current
12 internal investigation.

13 All of the involved officers were interviewed well
14 within the time required by the council when it passed
15 Directive 1010.10. Now the City needs to respect and protect
16 the integrity of the District Attorney's criminal death
17 investigation. For that reason, we have not been commenting,
18 and we have been asking the community to please wait until
19 those investigations are completed and the facts are made
20 available.

21 In closing, Your Honor, the community has a right to
22 expect constitutional and community focus policing. These
23 amendments, I believe, will foster the City's ability to meet
24 both of these objectives.

25 I'm sorry that I will not be able to remain here

1 throughout the day, but I'm grateful for the strong public
2 input and perceptions on these critical issues.

3 I respectfully request that Your Honor permit the
4 proposed settlement agreement amendments, which are supported
5 by all of the parties and the AMAC to take effect.

6 Thank you, Your Honor

7 THE COURT: Thank you, Mayor Wheeler. I appreciate
8 your comments and your presence here.

9 We will now take a ten-minute recess, and I will just
10 reiterate: We now have Cody and Andrew in the back of the
11 room. If you would like to give testimony and have not yet
12 signed up, please see Cody or Andrew. We will be in recess for
13 ten minutes.

14 (Recess.)

15 (Open court; proceedings resumed:)

16 THE COURT: Good morning. Please take your seats.
17 Continuing with the public testimony on the fairness issue
18 related to the proposed amendments to the settlement agreement,
19 I will invite those who have signed up to give their public
20 comments. I would ask several things of anyone who wants to
21 give public testimony: First, because we are keeping a
22 transcript of this and making a transcript of this, I would ask
23 you to speak slowly.

24 I would ask that you identify yourself and spell your
25 last name when you begin speaking. And to ensure that we can

1 hear from everyone who has signed up, I would ask folks to
2 limit your testimony to approximately five minutes or less. I
3 will let you know when we're at about five minutes.

4 Perhaps if you need more time than that, let me know,
5 and we will call on you after we have heard from everyone who
6 wishes to speak, if there's time. I will be letting you know
7 in groups of three who will be coming up. So we will begin
8 with Debbie Aiona, followed by Carol Cushman, followed by
9 Lightning.

10 So I invite Debbie Aiona to the podium.

11 MS. AIONA: Your Honor, I'm Debbie Aiona, A-I-O-N-A,
12 representing the League of Women Voters of Portland.

13 The League has been involved in police issues for
14 well over 30 years and consistently monitors the implementation
15 of the settlement agreement. Our organization promotes active
16 and informed involvement in government, and our comments today
17 focus primarily on public involvement and transparency as they
18 relate to the amended agreement.

19 Once it is up and running, the PCCEP will give
20 community members following the progress of reform an
21 opportunity to provide much needed public input. The fact that
22 the committee will go on after the settlement agreement
23 concludes will ensure that public involvement and Police Bureau
24 policies and practices continues.

25 The League's chief concern related to the PCCEP is

1 the provision allowing the committee to hold its meetings
2 behind closed doors, if and when it wishes. Well, this may be
3 technically in compliance with Oregon's public meeting law, it
4 certainly is not consistent with its spirit.

5 We strongly recommend that all PCCEP meetings be open
6 to the public. The League agrees with Open Oregon, a statewide
7 freedom of information coalition, that citizens benefit by
8 "having access to the process of deliberation and government
9 officials gain credibility by permitting the public to observe
10 their information gathering and decision-making processes.
11 Officials who keep their deliberations hidden from public
12 scrutiny create cynicism and erode public trust."

13 According to the City's adopted plan, the PCCEP will
14 be integrated into the Bureau's directives review process.
15 PCCEP involvement will provide an important connection between
16 the community and the bureau, as these policies are reviewed
17 and updated.

18 In the directives review process, the League
19 encourages the City to also tap into the expertise of two other
20 volunteer committees: The Citizen Review Committee and the
21 Training Advisory Council. The CRC applies Bureau directives
22 to real-world situations when it conducts appeal hearings of
23 police misconduct cases. TAC members have developed a thorough
24 understanding of the training division and studied best
25 practices. Currently the directives review timeline makes it

1 difficult, if not impossible, for these committees to provide
2 comment on policies relevant to the knowledge they have gained
3 in their service to the City. This scheduling barrier should
4 be remedied.

5 The settlement agreement directed the now-disbanded
6 Community Police Relations Committee to continue its work
7 gathering data and making recommendations to the Bureau on
8 discriminatory policing. We support transferring
9 responsibility for this important function to the PCCEP.

10 Given our and others' concerns about the PCCEP, we do
11 think that a check-in to take place in six months makes sense.

12 Thank you very much.

13 THE COURT: Thank you very much, Ms. Aiona.

14 I also express my appreciation to you and to your
15 colleagues, Ms. Cushman, Ms. Dannick, and Ms. Binder, for your
16 April 17th letter. Thank you.

17 MS. AIONA: Ms. Cushman is going to do a second part
18 for us.

19 THE COURT: All right. Thank you.

20 Ms. Cushman, welcome.

21 MS. CUSHMAN: Good morning, Your Honor. I am Carol
22 Cushman, also representing the League of Women Voters of
23 Portland.

24 The League, the CRC, along with other community
25 groups, raised objections to the 21-day timeline for CRC

1 appeals when the agreement was still in draft form. It's
2 gratifying to see that the amended agreement will exclude the
3 appeals from the 180-day timeline for investigations. Much
4 wasted time and effort has gone into trying to find a way to
5 implement this unnecessary provision.

6 I would like to speak to paragraph 131D. The
7 stipulated discipline exception raises the question about
8 whether the data from these cases will be captured in summary
9 reports issued by the Bureau and IPR. We believe it is
10 necessary that the same data be collected on these cases as on
11 others going through the typical process.

12 A recent report on police shootings was produced by
13 the OIR group, and it identified shortcomings associated with
14 its Police Review Board with the particular focus on the need
15 for the board to take a broader view of each case and examine
16 events leading to the shooting.

17 According to the report, progressive police review
18 boards consider pre-shooting tactics and make separate findings
19 on these decisions. The review board is a key player in the
20 investigative process, and given the problems identified by the
21 OIR group, we suggest that a thorough review of its procedures,
22 scope of review, and membership be conducted. This might well
23 be a task that the new PCCEP could undertake.

24 In light of OIR group's concerns, the City should
25 give serious consideration to allowing survivors of police

1 shootings or their families to request a CRC review of their
2 cases. A second look from a well-informed citizen panel could
3 help build trust in the system.

4 Behavioral Health Unit Advisory Board meetings take
5 place behind closed doors, in spite of community concerns
6 regarding this practice. Some of their discussions are
7 sensitive, and those parts of the meetings should remain
8 private. However, the League encourages the board to consider
9 holding occasional meetings in public or opening parts of the
10 meeting to the public when discussing policy-related matters.

11 The League believes that with the changes we have
12 proposed, the amended agreement could be seen as fair,
13 adequate, and a reasonable standard. The police have the
14 authority to take our freedom and even our lives. It is
15 essential that the community they serve have access to
16 information related to their work and a say in the policies
17 that govern their actions.

18 Provisionally adopting the amendments will allow all
19 to see if the proposals provide adequate oversight or adequate
20 results.

21 Thank you for considering our recommendations.

22 THE COURT: Thank you for submitting them,
23 Ms. Cushman. I appreciate that.

24 I would like to next to hear from Lightning.

25 Welcome, sir.

1 After Lightning, I would like to hear from Ms. Mimi
2 German, Ms. Regina Hamm, and Mr. Dan Handelman.

3 Lightning.

4 LIGHTNING: Yes. My name is Lightening, and I
5 represent Lightening Super Creativity Watchdog. One of the
6 issues I have on these amendments, just as the public, I don't
7 feel I've been given enough information on these amendments. I
8 was not able to go to any of the meetings pertaining to the
9 amendments. So, again, I'm not going to accept and ask you to
10 accept these amendments without more transparency on these
11 issues. I'm asking you to reject the amendments at this time
12 and extend this out for six months and to come back and review
13 and to see if you want to pass the amendments at that time.

14 My position, again, is pertaining to the Unity Center
15 that was created pertaining to the mental health issues. One
16 of the things that I wanted to try to do is incorporate more of
17 the neighborhood associations -- approximately 95 neighborhood
18 associations -- more into the discussions on the mental health
19 issues.

20 I have a concern with what is called "community
21 policing." I want to have people involved in the mental health
22 issues that do not carry weapons. I want to have people from
23 the neighborhood associations involved, going out in the
24 communities and having dialogue with their neighbors, the
25 people in their communities, and getting them to go into the

1 unity centers voluntarily, not having the contact with police,
2 not having the contact with people that carry guns.

3 I want to have them become more involved. They are
4 currently funded at the City budget of approximately
5 10 million. I want to have them assist the Portland Police
6 Bureau from that side and to have a separation from having to
7 carry weapons and to deal with people who have mental health
8 crisis.

9 I want to have trained people that can go and talk to
10 them as neighbors, as people in their community, as people in
11 their neighborhood associations and deal with them in a more
12 reasonable manner without any type of situation that can
13 involve the use of the weapons against them, as we saw recently
14 in the last couple of weeks, and I want to try to deescalate
15 the situation the best we can.

16 So again, I'm asking you not to approve these
17 amendments. Just as someone speaking from the public, I have
18 had no input on the amendments before this. I've had no access
19 to any meetings. I understand that there were even
20 confidential agreements signed at certain meetings.

21 I would love to review those, as the public. And I
22 would like to know why I can't review those, as the public. I
23 want more transparency, as the public, to have more informed
24 input when I stand up in front of a federal judge and say,
25 "Yes, approve this amendment."

1 So I'm saying today: Do not approve this amendment.
2 I have not had enough information. It hasn't been a
3 transparent process, and I need more information.

4 Thank you.

5 THE COURT: Thank you, sir.

6 Let me ask counsel for the City, if you know the
7 answer to this question. I know that the motion to enter the
8 amendments and the proposed amendments were filed in this
9 lawsuit in the Electronic Database Filing system December of
10 last year.

11 Do you know, were they also placed on any websites
12 for the City or for the police settlement that I know the City
13 maintains? Do you know the answer to that?

14 MS. REEVE: Your Honor, I'm not aware if they were
15 placed on the website for the police settlement. All of those
16 materials were attached and are available in the City's public
17 records system through the auditor's site because there were
18 four public City Council hearings on all of these amendments.
19 So they were heard publicly. They are filed there. The
20 settlement agreement amendments are publicly available. I'm
21 not sure if all of the other documents are on the City's
22 website.

23 THE COURT: So it is the City that maintains the
24 website that relates to the police settlement, right?

25 MS. REEVE: Yes.

1 THE COURT: So the proposed settlement agreement
2 amendments, are you saying that those were also available on
3 that website?

4 MS. REEVE: I'm looking over at my colleagues that
5 maintained the COCL website. I'm not sure if they were posted
6 there or on the PPB website. I know they are, as I said,
7 posted on the City's website, and they have been publicly
8 available in the City's public records system so that anybody
9 can get them.

10 THE COURT: I remember one of the benefits that you
11 all were telling me, and I agreed with you, having a specific
12 website where we can find everything related to the settlement
13 that was public and relevant. It is easier than navigating a
14 public records website generally.

15 So just using this as a learning experience, I do
16 think that Lightning makes a fair point, and that going forward
17 in the future, things like this, further amendments or anything
18 else like that, there should be some centralized website that I
19 know that COCL maintains or that others have maintained because
20 it is not that easy to navigate the District Court's public
21 website either. You need to be a party or have access to that.
22 But I do think it would be useful -- going forward -- if there
23 is additional amendments or proposed amendments, or things like
24 that, that can be easily available.

25 MS. REEVE: I concur, Your Honor. Those have been

1 provided to those bodies. I just don't know -- at the break I
2 can give the Court an answer.

3 Thank you.

4 THE COURT: Thank you. I do think, to the extent
5 they haven't been, I view that as a good learning experience
6 for us all.

7 All right. I would like to next hear public
8 testimony from Mimi German, followed by Regina Hamm, followed
9 by Mr. Handelman.

10 MS. GERMAN: Thank you, Judge. My name is
11 Mimi German. I would like to say, with response to where the
12 information is kept, in the past and in the present, we do have
13 something called the press. If it went to the press, then all
14 of Portland and the community would be aware of what is going
15 on.

16 I wanted to say that I long for accountability in
17 this city, Judge Simon, for a long time; accountability for
18 cops murdering our most vulnerable; accounting from the City
19 for its direct responsibility for our most vulnerable getting
20 murdered on our streets by the police.

21 What I see instead is a mayor who asks for 93 more
22 cops days after another mentally ill man is murdered on our
23 streets by the police.

24 What I see instead is a police force who is so cold
25 and brazen as to ask for \$4 million for more live ammunition

1 without an audit being requested by the City for where the old
2 ammunition was just the day after the Portland cops murdered
3 Quanice Hayes last year. The cops got that money.

4 Sorry. It is very challenging talking about this
5 when we see -- I go to City Council quite frequently and watch
6 this happen and watch the cops ask for this money days after
7 killing members of our community.

8 The cops also got a raise. Then they murdered
9 Terrell Johnson. Same story. There is zero accountability for
10 the police murdering our most vulnerable and often made most
11 vulnerable due to a highly corrupt police force with no
12 accountability even while they say they are accountable.

13 I am pleading with the Court to hold the actions or
14 lack of action by our city accountable to the agreement. I
15 grew up in Philadelphia during the time of Mayor Rizzo. We
16 never thought that worse cops could exist. Portland Police
17 make the cops that I grew up with in Philadelphia look far less
18 heinous than they were. That's hard to do, yet here we are.

19 The public must have a say in the punishment and
20 accountability of our killer cops. PCCEP is not going to
21 provide accountability sufficient to the people because it
22 allows the initial discussion and decisions made in secret,
23 only allowing the public to those decisions and how they came
24 about afterwards.

25 Please, Judge Simon, do not accept today's decision

1 as real oversight. We have to fix this first under the Court's
2 guidance and oversight. I'm one of a few residents currently
3 suing the City in Portland in federal court because the City
4 cannot follow its own rules and guidelines. This is a problem
5 in this city, I'm sure you're aware.

6 If the City can't follow its own rules and the
7 PCCEP's instructions -- and rules are that they can, at a whim,
8 create a backroom meeting that excludes the public, this is
9 more of the same. This is not accountability, and this is not
10 public interaction or involvement.

11 I also can't understand why the U.S. attorneys would
12 want to wrap up its case against the City, at least as it
13 seems, without making a motion that assures the public that
14 accountability will occur after the cops murder the next
15 mentally ill person or black person in Portland, because that
16 will happen.

17 These amendments were created with a lack of
18 transparency. I wasn't aware when these meetings were
19 happening. Had it been in the press, had it been in any -- had
20 it been in the Willamette, The Oregonian, had it been on the
21 news, had it been anywhere, that would have shown that the City
22 was inclusive in saying, "You have a say in how we are going to
23 fix this," and instead, they chose not to.

24 Regarding the City's response to your question with
25 where the information is. On the PPB website? I don't go on

1 to the PPB website. I don't know many people who do to find
2 what's going on in the City. Perhaps I should, and I will now,
3 though I do follow them on Twitter, and that wasn't on their
4 Twitter feed.

5 I am asking you, Judge Simon, at least, if the U.S.
6 attorneys are not going to create a motion to ensure
7 accountability in the way that you had explained earlier in
8 your opening statements, that you do decide, as you expressed
9 earlier as a possibility, a six-month revisit and also some
10 form of insurance that those meetings from PCCEP will never be
11 held in private; that that piece of the ruling goes away, and
12 then we come back in six months.

13 Thank you for your time.

14 THE COURT: Thank you, Ms. German. Am I pronouncing
15 your name correctly?

16 MS. GERMAN: It is German (enunciating), but who
17 would know. It's spelled like German.

18 THE COURT: Thank you.

19 Then Ms. Hamm, followed by Mr. Handelman.

20 MR. HANDELMAN: We are going to come up as a unit.

21 THE COURT: That's fine.

22 After Mr. Handelman, I would like to hear from Philip
23 Cacha, Michael Schumann, and Sharon Maxwell.

24 All right. Welcome, Ms. Hamm.

25 MS. HANNON: Actually, it's Hannon. H-A-N-N-O-N. It

1 is my own handwriting, so that's my problem.

2 THE COURT: Ms. Hannon.

3 MS. HANNON: We are all from Portland Copwatch, and
4 we will be sharing our testimony today.

5 So again, Regina Hannon from Portland Copwatch. We
6 presented 30 minutes of testimony at the first fairness hearing
7 outlining ways in which the original settlement agreement was
8 not fair, adequate, or reasonable as a means to reduce Portland
9 Police use of Portland, improve accountability, and build
10 goodwill with the community.

11 Though we are here today examining the proposed
12 amendments to the agreement, it is worth noting that, at best,
13 only two of our concerns are being addressed by these
14 amendments. Thus, after our feedback on the amendments, we
15 will speak about some of the amendments that could have been
16 made and still need to be made to fulfill the fair, adequate,
17 and reasonable test, as well as looking at how the settlement
18 agreement has been implemented and the reports assessing that
19 implementation.

20 Our testimony today relies on our testimony to
21 Council in 2012 and last summer, our court testimony from 2014,
22 the analysis of the Department of Justice and Compliance
23 Officer/Community Liaison assessments, which we sent to the
24 Court on January 12th of this year, and dozens of other
25 documents and experiences of our group.

1 When we gave testimony at the first fairness hearing,
2 we spoke of our 22 years as a group. We are now at 26 years
3 into trying to get the Portland Police free from corruption,
4 brutality, and racism. Overall, we ask for the Court's
5 objective analysis of the changes.

6 While in the legal sense this agreement is between
7 the USDOJ and the City, both entities are created by and
8 responsive to the community, the people. Yet most of the
9 propose changes were developed behind closed doors with little,
10 late, or no community input.

11 The cover ordinance Council presented when adopting
12 the amendments indicates the City, PPA, DOJ, and the AMAC
13 collision were involved in the discussions from late 2016 to
14 early 2017 on replacing COAB, but then the City used the
15 confidential mediation sessions in the Ninth Circuit to
16 continue these discussions without the Coalition.

17 Several paragraphs of that document show that the
18 AMAC asked to be included, but was denied to do so until
19 July 14, just two weeks before the plan was released. This is
20 not enough time to digest and debate such an important matter,
21 especially when the members of the AMAC Coalition allowed into
22 those mediations were not allowed to share information with the
23 community. That also includes the member of Copwatch, who
24 could not ask for feedback from the rest of our group.

25 To be clear, our testimony today is based wholly on

1 public discussion, public documents, and dozens of meetings
2 that Portland Copwatch members attend. It is unfortunate that
3 the City seems to think that a confidential legal process is a
4 good way to create a community-based panel charged with
5 advising the Bureau on how to effectively engage the community.
6 However, it is indicative of the larger problem that both the
7 City and the Bureau seem to see community engagement as talking
8 to the community about what they are doing rather than
9 listening to concerns and constructive ideas for change.

10 Thank you.

11 THE COURT: Thank you, Ms. Hannon. I appreciate
12 those comments.

13 Welcome, Mr. Handelman.

14 MR. HANDELMAN: Thank you, Your Honor. Just to be
15 clear, when all of us are done testifying, I'm going to come
16 back up again, if you'd let me know how much time is left. I
17 will try to respect that. Hopefully, I come back with whatever
18 we have left over.

19 I'm Dan Handelman. I am with Portland Copwatch. My
20 section is on the amendments being mostly not fair, adequate,
21 or reasonable.

22 I did want to note that the amendments were passed by
23 City Council, but most of the discussion that happened last
24 summer was about the deadly force directive and the PCCEP.
25 Some of the other amendments were not discussed at all

1 thoroughly.

2 With regard to coming back in six months, I think
3 that's a good idea. I believe Your Honor wrote some questions
4 back to the parties after the first fairness hearing, and
5 perhaps the provisional acceptance upfront could also include a
6 shorter time period where you ask people to respond to some
7 questions that need to be addressed right away.

8 So going in order here, here is our analysis of the
9 seven amendments. First, paragraph 69C, which removes the
10 requirement to treat deadly force like other force incidents,
11 it modifies rules for writing reports, including officer
12 reports and after-action reports based on the new post
13 deadly-force directive.

14 The community won a hard-fought struggle last summer
15 led by the AMAC and Portland Copwatch to fix that directive and
16 allow PPB to question officers within 48 hours rather than
17 waiting until after the grand jury was completed, as the DA
18 wanted.

19 While it is good that the City Council pushed back
20 against the DA, a future council could reverse this policy.
21 Also, the DOJ previously promised officers involved in deadly
22 force incidents would be required to write police reports and
23 use-of-force reports as they would in any other situation, but
24 the rewrite allows other officers to write statements on the
25 officer's behalf. This does not promote the kind of community

1 trust in the system the agreement promised

2 While we recognize a criminal proceeding might be
3 tainted if an officer's report is seen as self-incriminating,
4 we also note no officer has been indicted for on-duty shooting
5 death since 1969.

6 Second and third, paragraph 73A removes the
7 requirement for supervisors to review all comments in the
8 Employee Information System, and paragraph 117 changes how data
9 are collected to review use of force by precinct and commander.
10 We're not sure whether these changes will improve the use of
11 EIS, which the community was promised was functioning perfectly
12 well in the year 2000 and forward from there, but it seems
13 there are too many comments in the EIS, which are not relevant.
14 Because officers have multiple supervisors, it does not meet
15 the needs of the agreement. So rather than changing the EIS,
16 the DOJ and City are changing the agreement.

17 DOJ's analysis shows that only between 16 to 47
18 percent of officers flagged by the EIS were called to the
19 attention of their supervisors and that 78 percent of flags are
20 because of force cases. They found instances where supervisors
21 condone officers' behavior before an investigation was
22 completed. As a side note, although our group likes to take an
23 institutional analysis of the Bureau, it is of concern the
24 officer in charge of the EIS, Paul Meyer, was the officer who
25 sat on the now-defunct COAB and used official Portland Police

1 letterhead to file complaints against civilian members of that
2 board.

3 Fourth, paragraph 121 extends the deadline for the
4 CRC to hear appeals from 21 to 90 days and removes them from
5 the 180-day timeline. CRC members, our group, other long-time
6 observers of the system, as you heard, testified prior to the
7 filing of the agreement with this Court at the fairness hearing
8 and at every other opportunity that this is non-reasonable.

9 CRC began doubling up on the number of cases that it
10 heard per month and lost many members due to the stress of
11 trying to meet the deadline. So while we're thankful the
12 parties are making this important change, it is a good example
13 of why the community's voices should play a larger role in
14 finding solutions to fix our system.

15 Fifth, paragraph 131D adds the ability for officers
16 to admit wrongdoing and skip investigations and police review
17 hearings in some cases. We testified to Council that if
18 officers elect to skip going through investigations, they
19 should be reported in a semiannual PRB report for transparency
20 sake.

21 Sixth, major changes to the community engagement
22 section of the agreement replaces the COAB with a new Portland
23 Committee on Community-Engaged Policing. First and foremost,
24 we would like to call attention to the only change that really
25 needed to be made to this section, which the City actually

1 mentioned this morning, the removal the COCL as the chair.

2 When the agreement was first proposed, the COCL was
3 going to have a vote on that board, but community pushback got
4 that part amended before it came to the Court. But that did
5 not stop the COCL from trying to control the COAB and alienate
6 the community that it was supposed to be serving.

7 While many people focus on the lack of training and
8 preparation for COAB members as a reason they disbanded, the
9 COCL's role, including the locally hired facilitators, could
10 not be understated. Moreover, once the City became displeased
11 with the COAB focusing on proposed changes to Bureau policies,
12 they stopped filling the seats left by people who resigned in
13 frustration or disgust. And finally, as we put it earlier,
14 drowning the COAB in a bathtub in January of last year.

15 So to sum up, other items to raise as a concern when
16 Council contemplated creating the PCCEP, some of these are in
17 the agreement and some of them are in the PCCEP.document. I'm
18 going to try to list these quickly and get to my next
19 colleague.

20 THE COURT: But don't speak quickly.

21 MR. HANDELMAN: I won't try to read them quickly.

22 You have heard that the PCCEP is going to be able to
23 independently assess the implementation of the agreement, but
24 the language that's actually in the amendment doesn't use the
25 word "implementation." It just says assess the agreement. The

1 City has agreed it means implementation. I'm not sure why they
2 don't just amend the agreement to say that, because that's very
3 important.

4 PCCEP is allowed to host forums by the compliance
5 officer, but they aren't required to comment on those analyses.

6 COCL should probably change into the "CO" at this
7 point if they are not going to be a community liaison anymore.

8 In paragraph 151, you've heard a lot of the
9 discussion about meeting behind closed doors. We are very
10 opposed to that. It is going to breed mistrust and contempt.
11 The BHU Advisory Committee already meets behind closed doors --
12 and the Police Review Board as well.

13 PCCEP is envisioned as a way to channel community
14 engagement information from the Police Bureau, which makes them
15 more of a public relations arm than an oversight body, which
16 perhaps is one reason the word "oversight" is no longer in
17 their name.

18 The amendments cut out the agreement's description of
19 a diverse membership for the board.

20 The amendments envision that the board will be up and
21 running within four months and have the ability to advise a new
22 community survey. The history does not reflect that that's a
23 reasonable timeline.

24 I will stop there and turn it over to my next
25 colleague

1 THE COURT: Thank you, Mr. Handelman.

2 Mr. Cacka.

3 MR. CACKA: Thank you, Your Honor. My name is Philip
4 Cacka. Last name spelled C-A-C-K-A.

5 There are nine major issues that Portland Copwatch
6 asked the DOJ and the City to address in the amendment that
7 weren't included.

8 No. 1. Defining deescalation as calming a situation
9 down, using verbal and physical tactics. The Bureau
10 incorporates that definition, but also thinks that warning
11 someone they will be hit with a Taser is deescalation, removing
12 from a Taser to using pepper spray. The first example is a
13 threat, and the second is an abatement of force. Paragraph 67.

14 In the compliance report, the DOJ agrees with the
15 COCL's assessment that officers yelling at people is not a form
16 of deescalation. However, the DOJ suggests using the
17 terminology "event deescalation/enforce deescalation" rather
18 than using Portland Copwatch's idea of avoiding confusion by
19 talking about deescalation of an encounter and the mitigation
20 of force once force has been used.

21 The second item: Explaining what "avoiding higher
22 level of force" means since the force continuum has been
23 dropped.

24 No. 3. Closing loopholes to use Tasers in situations
25 which do not present an immediate threat, as required by the

1 Ninth Circuit Court of Appeals decision on their use. The
2 Ninth Circuit Court noted Tasers can cause substantial pain,
3 and so should be restricted to use only when actual threat of
4 safety exists. Loopholes exist for tasing handcuffed subjects,
5 paragraph 68G; using multiple Tasers on one person, 68D; using
6 the stun gun without warning, 68B. And these horrifying
7 loopholes are all reflected in the current force directive and
8 apparently constitutionally unsound.

9 No. 4. Taking out paragraph 61, which limits CRC to
10 the differential reasonable person standard. Removal would
11 allow the City to change that standard more easily to the
12 preponderance of the evidence, something the CRC has been
13 asking for since 2010.

14 No. 5. Striking the provision in paragraph 43
15 prohibiting appeals of deadly force cases to CRC. As we said
16 in 2014, this prohibition is an obvious way in which the
17 agreement does not remedy the pattern and practice of excessive
18 force against people in mental health crisis. We find it hard
19 to believe that anyone in the mental health community believes
20 it fair, adequate, or reasonable for the agreement to state in
21 its definition section that such a person has no right to an
22 appeal.

23 No. 6. Open Police Review Board hearings to the
24 public. At a minimum requiring PRB civilian members to hold
25 semiannual meetings to share their thoughts about the process

1 and go over PRB reports. Paragraph 131. Also allowing the
2 civilian complainant or representative for a person killed by
3 the police to attend PRB hearings.

4 No. 7. Giving the on-scene investigation into use of
5 force to a civilian agency rather than a sergeant who is in the
6 same collective bargaining unit as the officer; required now in
7 paragraph 70.

8 No. 8. Requiring the Bureau to collect data on mere
9 conversation, as suggested by the DOJ's letter finding and the
10 auditor's GET report. Paragraph 138 says, "To document
11 appropriate demographic data regarding subjects of police
12 encounters without defining what incidents to cover."

13 And the final item, No. 9. Dropping the Service
14 Coordination Team; instead making rehabilitation and treatment
15 available to those who want it. The SCT is described in
16 paragraph 112. COCL's latest report indicates its graduation
17 rate recently has gone up from 20 percent to 24 percent. The
18 outcomes examined show those who finish the program have more
19 success in finding housing and employment and staying away from
20 being arrested than those who do not. However, the COCL, the
21 social scientists, did not compare those rates to people who
22 are not given the coercive choice after being arrested
23 repeatedly of going to jail or going into rehab. Portland
24 Copwatch uses the term "compulsory" at the City's March forum,
25 prompting the SCT officer to say, "People all enter the program

1 voluntarily." But really, people only get access to the
2 program after such repeat arrests and threats of going to jail.

3 On the bright side, while 2008's statistics show
4 52 percent of people subject to the program are
5 African-American in a city which is 6 percent black, that
6 number is down to 15 percent.

7 With that, I'll pass it on

8 THE COURT: Thank you, Mr. Cacka.

9 Mr. Schumann.

10 MR. SCHUMANN: My name is Michael Schumann.

11 I am going to talk rather generally. I have kind of
12 listened to the testimony today, and I've read the COCL report
13 and how the City is complying. I am going to limit it to
14 mental health today. But the City is pretty much complying
15 with mental health, and everybody seems to be pretty much in
16 agreement, except that there are some things that need to be
17 pointed out.

18 The police department have the crisis intervention
19 field training, they have the Behavioral Health Unit, the
20 emergency crisis intervention training. Apparently many of the
21 officers have now had mental health counseling or training of
22 some sort. Some of them have had enhanced mental health
23 training of some sort.

24 We're now two years into this. This lawsuit was
25 started over mental health. The Portland Police Department was

1 shooting people with mental health crises. So now we're all
2 getting along. And what happens? Last week, there is a person
3 has a serious mental health problem from what I can read in the
4 press, and I did take a look at the video. He's cutting
5 himself rather badly. He's in a large room. Twelve police
6 officers show up: Eleven Portland and a sheriff.

7 I assume that some of those Portland police officers
8 had mental health training and maybe some had more than that,
9 maybe even advanced mental health training. I know that the
10 Portland police carry Tasers, which we don't like to see used,
11 but it may have been appropriate. I know that the Portland
12 police officers have these collapsable batons that they are
13 able to use.

14 I'm trying to picture twelve Portland police officers
15 with batons, and one guy that's kind of not doing very well and
16 a knife. He is hurting himself. He is not charging the cops
17 on the video that I saw. He is just there.

18 So what happens? All those police have martial arts
19 training besides everything else -- twelve of them.

20 What is it that we did, now that we have gone through
21 these two years, and we've got these units set up? What
22 happens? What did happen was that they said, "Drop the gun" --
23 or "Drop the knife." Eight police officers pulled out their
24 guns, and they shot the guy.

25 As a result of that, what will happen to them? I can

1 tell you pretty much from experience that no police officer
2 will be disciplined. And if any are disciplined, if the Mayor
3 and the police chief have decided that they wish to impose
4 discipline on these officers, they will appeal. The police
5 union contract provides for an arbitration clause. It will go
6 to arbitration. Arbitration is based on the past history, and
7 they will win. And they will be put back on the police, or
8 whatever discipline they have will be gone. They will not be
9 held responsible.

10 The result of that is that the police chief can't
11 enforce the rules. We have all these agreements. They are
12 never going to be enforced unless something seriously changes
13 over there. The union contract has to be one thing that gets
14 changed, and it doesn't look like anybody is going to do it.
15 The U.S. and the City are in agreement, and I can predict that
16 it is just going to keep happening over and over again.

17 Thank you.

18 Thank you, Mr. Schumann. I appreciate that.

19 Mr. Handelman.

20 MR. HANDELMAN: Judge Simon, if you let me know how
21 much more time we have.

22 THE COURT: We are doing fine on time. Would a few
23 minutes be sufficient?

24 MR. HANDELMAN: A few minutes? Sure.

25 THE COURT: But don't speak quickly.

1 MR. HANDELMAN: If you could give me five minutes,
2 and I will hand in my testimony to the clerk.

3 THE COURT: Although I do want to say, you're welcome
4 to make any comments you want, as did Mr. Schumann, as did
5 everyone else. It would be inappropriate for me to make any
6 comments at all about that shooting, and I understand and
7 appreciate the City's position about not making any comments at
8 this time. It is my understanding and expectation that there
9 will be an appropriate time for comments about that issue, but
10 this is not it from me -- or even from the City -- that said I
11 will not restrict any testimony that a member of the public
12 wishes to make.

13 MR. HANDELMAN: That is good because it's always
14 appropriate for the community to make comments about these
15 things.

16 THE COURT: I'm just explaining why you're not going
17 to get a response from me.

18 MR. HANDELMAN: No, I gotcha. I read you loud and
19 clear.

20 So I believe that actually there were 20 officers
21 that went in because there were 12 witness officers in addition
22 to the eight law enforcement agents that shot at Mr. Elifritz,
23 and we -- Mr. Schumann also raised an issue about how the
24 Portland Police Association, which is a full party as a
25 defendant in this case, seemed to act contrary to the reforms

1 that we're trying to enact. They blame the agreement's
2 emphasis on using less force for the outcome of the incident
3 when an officer called for backup rather than engage in a fight
4 between a man with a knife and a store clerk with a sword a few
5 weeks ago.

6 Their defending of the Gang Enforcement Team's
7 overpolicing of the African-American community after the city
8 auditor released her report showing they have no documents to
9 justify their behavior.

10 In addition, while the COCL and the DOJ found the
11 City in compliance of paragraph 127 of the City --

12 THE COURT: Slow down, please.

13 MR. HANDELMAN: Okay. They found the City in
14 compliance of paragraph 127 because the City is asking officers
15 to do walk-throughs in deadly force cases. No officer has done
16 so after a recommendation of the PPA.

17 We hope the judge will consider reminding the PPA
18 they have stated their willingness to embrace these reforms
19 with the only caveat to file formal grievances for the changes
20 that affect their bargaining agreement.

21 As a refresher, the DOJ claimed there were fewer --
22 less lethal force incidents in the year since our investigation
23 began. We responded with a list of shootings that we sent the
24 Court that shows the average has remained at just over four per
25 year. The same as before the DOJ arrived.

1 The majority of those people who have been killed
2 have had mental health issues of some kind. So this is part of
3 a pattern. We're not even talking about the specifics of
4 Mr. Elifritz's case.

5 Sarah Michelle Brown, who was shot at by the police
6 earlier this year, was also in some kind of crisis.

7 So the Elifritz case, though, illustrates why the
8 mental requirement of having one behavioral health response
9 people in each precinct, paragraph 106, is insufficient. The
10 City's DOJ formed a few days before Elifritz died. They stated
11 those teams go out Tuesdays through Fridays. The media
12 reported the officers who encountered Mr. Elifritz referred him
13 to the BHOT, but it was a Saturday.

14 The community member semi-jokingly stated that it's a
15 good thing there are no mental health crises on the weekends.

16 Regarding paragraphs 135 and 136 which allow the CRC
17 to declare findings unreasonable and send cases back from our
18 investigation, DOJ reports that IPR is not providing them with
19 regular data. IPR did not report criminal allegations to the
20 Bureau in three cases.

21 So, you know, kind of the broad issue that we're
22 trying to get at here is that there's a lot of substantial -- a
23 lot of findings of substantial compliance with this agreement,
24 even though we would argue that there are a lot of places
25 where -- in which the City is not in substantial compliance,

1 and the reforms aren't leading to the changes that we were
2 promised.

3 In our 2014 testimony to the Court, we asked for some
4 guidance on how compliance would be measured when the agreement
5 is declared to be fulfilled. The City has made many tweaks to
6 the terms of the agreement which are not reflected in the
7 amendments before you today, including changing the names of
8 several entities created by the agreement, missing multiple
9 deadlines that are in there, including the December 2013
10 deadline, when they were supposed to change what data are
11 collected at traffic stops. That change is expected in July of
12 this year. Five years later.

13 DOJ and COCL and the City's definition of the Unity
14 Center as a walk-in drop-off center, as contemplated in the
15 mental health section, and members of this community, as you
16 got from the Mental Health Association, do not agree that
17 that's adequate.

18 So the question is when we're saying is this fair,
19 adequate, and reasonable, does adequate mean good enough, as
20 opposed to improved or excellent, or does it mean the changes
21 will actually provide relief for those harmed before and after
22 the DOJ's investigation?

23 Dashing hopes for meaningful changes, the City chose
24 to retain many provisions in the PPA contract which hamper
25 accountability. Even though they removed the 48-hour rule, the

1 community had to fight to avoid having that rule extended and
2 distorted through a policy change.

3 Other provisions hampering true oversight and
4 accountability were not even on the table, leading to the
5 boisterous protests and a crackdown before the last status
6 conference.

7 Despite the October 2013 testimony of the IPR
8 director describing the system that required and still requires
9 them to use the Bureau to compel officer testimony as crazy,
10 nothing was done to ensure that power, and the IPR is still
11 dependent on the PPB.

12 IPR is not allowed to investigate shootings and
13 thefts -- the cases of most concern to the community.

14 We conclude by once again asking the Court to give
15 guidance of what it means to be fair, adequate, and reasonable
16 and what it means for the City to be in compliance for the
17 reform set forth in the agreement. We can no longer abide by
18 "good enough."

19 If the City wants to promote the Portland police as
20 an example of excellence, we must see more being done with less
21 resistance and more true community engagement.

22 And I would add to that that if Your Honor decides to
23 provisionally agree to this with a six-month return, it would
24 also show goodwill for the City to agree to that and not file
25 another appeal, because we've already been through that twice.

1 THE COURT: That's another thing I'm not going to
2 comment on.

3 Thank you, Mr. Handelman. I appreciate your comments
4 and your perspectives, sir.

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1 We'll next hear from Ms. Sharon Maxwell, followed by
2 Mr. Calvin Hall -- am I pronouncing that correctly? -- and then
3 Ms. Hardesty.

4 MS. MAXWELL: Good morning, Judge Simon. I'm
5 struggling with a dry cough this morning. I'm Sharon Maxwell.
6 As a former COAB member, first of all, let me just take a step
7 back because I'm a little nervous this morning, but I am very
8 excited to be here because the people have waited over two
9 years to get this opportunity to be able to share with you,
10 Judge Simon, on our treatment.

11 I want to make some recommendations that the Court
12 should provide friend status to the COAB volunteers and have
13 them, per the original agreement, under the direct supervision
14 of federal Judge Simon; that we should -- that you should
15 remove the decision from voting rights for the hiring of the
16 subcontractors and a court monitor from anyone but the COAB and
17 federal Judge Simon, as well as a newly proposed court monitor.
18 I recommend that you remove the supervision of the volunteers
19 and contract payments from Rosenbaum. I recommend that you
20 provide opportunity for previous COAB members to serve one-year
21 extension on the COAB or the new community policing
22 committee -- committee. I recommend that you appoint and hire
23 subcontractors to work with the court monitor with
24 recommendations coming from the original COAB volunteer members
25 in conjunction with you, Judge Simon, to who should be the

1 subcontractors. And these are all recommendations from the
2 COAB volunteers previously.

3 I recommend, with the reform plan under a newly
4 established court monitor and contractors, adding five years
5 more to the settlement agreement, which I testified at the
6 previous settlement hearing, the court hearing. I recommend
7 that you should add tolling of one year for volunteers who
8 perceive they have been unjustly targeted and profiled for
9 dissenting against Rosenbaum and the City of Portland, as
10 recommended by the previous COAB members.

11 I recommend that myself -- I will be filing a
12 whistleblowing grievance and review for recommendations to
13 issue a court order against the City of Portland to freeze all
14 funds until the Secretary of State independently reports on the
15 hiring of Rosenbaum, who, according to members of the hiring
16 committee, was not in the final list and yet received this
17 contract to manage the settlement agreement.

18 I recommend a request for a public hearing demanding
19 to find out if entrusted community leaders received
20 under-the-table kickbacks for their support of a corrupt hiring
21 process and deeming acts against COAB volunteers. I
22 recommend/request all hiring information be made available to
23 the Court for public and the former COAB members' review. Such
24 requests have been asked and not given.

25 I recommend and demand a response from the -- from

1 the United States Civil Rights Department as to why they did
2 not provide a motion to the judge to review and address COAB
3 volunteers, corruption concerns, despite having COAB members
4 Jimi Johnson and myself present our concerns.

5 The Civil Rights Department should answer why they
6 did not provide legal advice to the COAB members as well as
7 present their interest as an independent body.

8 Just recently, the citizens of Multnomah County
9 experienced a traumatic verbal inappropriate attack from one of
10 its highest leaders. Multnomah County Chair Deborah Kafoury of
11 calling a woman a "B" in a public board meeting. There was
12 nowhere, nowhere to file a complaint for recourse for employees
13 or other commissioners, and I have recommended, as a candidate
14 for Multnomah County District 2 Commissioner, that we instate
15 the former merit council and ombudsman's office whereby
16 management and regular staff are able to file a complaint which
17 will provide safeguards for an independent lens and review of
18 pertinent facts.

19 Excuse me. I also recommend, as a candidate -- as a
20 former candidate for City of Portland -- I ran in 2014 and
21 received over 20,000 votes for City Commissioner -- and now as
22 a current candidate for Multnomah County District 2, I endorse
23 Mayor Wheeler's recommendations to create an advisory group to
24 be called and it to be supervised under the Mayor's leadership.

25 Further -- excuse me. I had -- we didn't have very

1 much notice, so I had to write this all out just yesterday --
2 that the community and former COAB recommendations to the
3 original plan of the COAB members being supervised by you,
4 Judge Simon. Thank you.

5 THE COURT: You know, I do want to respond to a few
6 things. Some of these things I'm going to tell you, you may
7 not know; some of them you may know. Obviously, you raise very
8 serious points, as has everyone who has testified here, but
9 with a couple of your comments about court monitor and under my
10 supervision. There are a number of these lawsuits that the
11 U.S. Department of Justice has filed against cities and related
12 to police actions around the nation. Most, if not all of them,
13 have resulted in a settlement. And the Portland settlement is
14 somewhat unique in comparison to some of these other cities.
15 We've talked about this at previous hearings, but let me just
16 remind you and everyone else the way in which it's unique.

17 Many of the other settlements between the United
18 States Department of Justice Civil Rights Division and the city
19 that was sued as a defendant, involve a continuing consent
20 decree and continuing supervision by the Court, and oftentimes
21 a court-appointed monitor -- a court monitor. You see that in
22 Seattle; you see that in a few other jurisdictions.

23 This settlement, the way it was presented to me, was
24 very different. It didn't have that. It wasn't in the form of
25 a consent decree, which is a court order where the Court

1 continues monitoring. It didn't have any opportunity for
2 continuing court supervision and direction. I've taken it upon
3 myself, and the parties have, to some extent, acquiesced in my
4 periodic status conferences, but I don't have legal authority
5 to order folks to do anything other than to report to me
6 periodically about the status. I don't have the authority to
7 appoint a court monitor or to make a number of the orders that
8 are subject of some of your recommendations even though you may
9 see other federal judges in other cities doing that under those
10 types of settlement agreements or really consent decrees.

11 And one of the things that I think we all need to do
12 in hindsight, and I'm not quite sure we're sufficiently down
13 the path yet to do this in hindsight, is to evaluate whether or
14 not some of the other forms of consent decree settlements are
15 better than the type of settlement agreement we have here.

16 MS. MAXWELL: Sure.

17 THE COURT: I can see strengths and weaknesses,
18 really, of each. I'm not sure we're sufficiently detached in
19 time to make an informed evaluation of that. But as I've
20 described earlier today and in previous hearings, the only
21 thing that I really can do besides call for and permit periodic
22 status conferences and take public testimony is if there is
23 first a motion brought by the plaintiff, the United States
24 Department of Justice, to find the settlement -- to find the
25 defendant in breach of the settlement agreement, and then the

1 moving party can ask for appropriate relief if there is such a
2 finding of violation.

3 That's all I can do, and my hands are tied unless
4 there's such a motion.

5 Now, if you want to ask why was there not a motion
6 brought, you have every right to ask that question. I can't
7 give you that answer, but if you want to ask that question to
8 the Department of Justice, you have every right to do that. If
9 you want to ask questions to the City, you have every right to
10 do that. But I'm not going -- I'm not able, in the context of
11 this settlement, to appoint a court monitor. I'm not able to
12 order a number of the forms of relief that you've specifically
13 asked for.

14 Frankly, what's before me right now essentially is a
15 binary choice which I'm thinking about turning into a tertiary
16 choice, but we'll hear argument from counsel, and that is to
17 either approve or disapprove the proposed amendments. I'm
18 thinking and I've asked the counsel to respond and we've heard
19 some public testimony, well, maybe there's a third option, and
20 that is I'll provisionally or conditionally approve it. We'll
21 see how it's going, and then we'll talk again in a few moments.
22 But I wanted to take this time to explain in a little bit more
23 detail why I can't appoint a court monitor or order a number of
24 the things that you are recommending.

25 That said, as I said in the very beginning of this

1 hearing, we live in a constitutional democratic republic.
2 Ultimately, the people are in charge.

3 MS. MAXWELL: Right.

4 THE COURT: As you well know and so do others in this
5 courtroom, we have democratic processes at work. And to
6 whatever extent anyone wants to use them, they're free to use
7 them, and I express no further opinion on that subject.

8 But I thank you very much for your recommendations
9 and your comments. If you want to say something, go ahead.

10 MS. MAXFIELD: Yes, Your Honor. I did have two
11 further statements that I did want to make clear -- is that I
12 do plan to file a court injunction to stop the return of the
13 contract to the COCL Rosenbaum, and I intend to file a
14 whistleblower complaint for corruption and harassment and
15 intimidation by the COCL and the City of Portland against
16 myself, a former COAB member. Thank you.

17 THE COURT: And I, of course, address no comments or
18 opinions on those matters at all at this time.

19 MS. MAXWELL: Thank you.

20 THE COURT: Thank you.

21 Let's go to Mr. -- is it Calvin Hall and then
22 Ms. Hardesty, and then I'll give you the list after that.

23 Mr. Hall, welcome.

24 MR. HALL: Thank you. Professor Hall, Your Honor.

25 THE COURT: Professor Hall. Excuse me, sir.

1 MR. HALL: For the record, my name is Calvin Hall. I
2 would like to thank two women in particular. Sharon Maxwell
3 for demonstrating courage to stand up against corruption.

4 And I will say to you, Mr. Rosenbaum, you may have
5 bought off community members, but you will never buy off this
6 black man.

7 And to the second person, thank you for your -- thank
8 you for your --

9 THE COURT: Mr. -- Professor Hall. Professor Hall.

10 MR. HALL: -- leadership for --

11 THE COURT: Professor Hall.

12 MR. HALL: -- initiating the independent process.

13 THE COURT: Sir. Sir, I will ask one thing, please.
14 I will ask that you direct all comments -- and this is for
15 everyone -- all comments to me.

16 MR. HALL: Okay, sir.

17 THE COURT: Everyone in this courtroom will hear you,
18 but please do, sir, direct your comments to me.

19 MR. HALL: Okay. Well, then my first comments I'll
20 direct is that I will correct your assertion that you don't
21 have the authority to correct this. I'll cite the court case,
22 and I will address each faction individually. But first I want
23 to read my public statement and, with all due respect to the
24 court, I have a family member that has fourth degree cancer
25 that's dying that demanded that I come here today, and so,

1 therefore, I'm not here for any intellectual garbage.

2 THE COURT: No, I understand. Please do read slowly
3 so we have an accurate transcript.

4 MR. HALL: Yes, I will do sir.

5 THE COURT: Thank you, sir.

6 MR. HALL: James Madison wrote that our Republic
7 consists of factions and only when guided by justice can we
8 live throughout the ages.

9 Your Honor, citizens of Portland, United States
10 Department of Civil Rights, City of Portland, my name is
11 Professor Hall. I'm here today to endorse the following
12 recommendations as made by former COAB volunteer leaders:
13 Senator Avel Gordly, Administrator Jimi Johnson, and other
14 voting members.

15 I advocate that the Court honor the COAB following
16 volunteer recommendations. The judge should create an
17 appointed court monitor as recommended by the former volunteers
18 who worked for free.

19 The judge should appoint and hire subcontractors to
20 work with the court monitor with recommendations coming from
21 the original COAB volunteer members in conjunction with Judge
22 Simon as to who should be the court contractors -- coming from
23 the volunteers who worked for free.

24 The judge should remove supervision of volunteers and
25 contract payments to Rosenbaum as recommended by the volunteers

1 who worked for free.

2 The judge should provide "friend of the court" status
3 to the COAB volunteers and have, per the agreement, under the
4 direct supervision of United States Federal Judge, Judge Simon.
5 This would give -- would have given and would give future COAB
6 members the direct authority to have a dialogue with you and
7 not have to go through intellectual dishonesty in the
8 bureaucracy that yielded this corruption.

9 The judge should continue with reform plan under the
10 newly established court monitor and contractors, adding five
11 more years to the settlement agreement, as recommended by COAB
12 volunteer members.

13 The judge should be tolling one year for volunteers
14 who perceived that they had been unjustly targeted and profiled
15 by those to dissented against Rosenbaum.

16 And to those who are not familiar with tolling,
17 tolling is a statute that allows the Court to issue a one-year
18 extension to file a whistleblower lawsuit if they've missed the
19 certain deadline.

20 I received a call from Sharon Maxwell, who was with
21 her autistic grandson, and there was four white men that were
22 officers and left a note on her car saying, "Shut your mouth,
23 B," fall in line with the other black people that we paid off.
24 And as I walk to their car and looked at them and made a clear
25 statement that justice is higher than the black people that

1 they bought off and their racist attitudes. We need tolling,
2 and that was not brought by the department -- the United States
3 Civil Rights Department.

4 The judge should request a public hearing demanding
5 to find out if entrusted community leaders received
6 under-the-table kickbacks from the support of the corrupt -- of
7 the corrupt hiring process and in the many acts by Rosenbaum.
8 Rosenbaum was not in the finals. I was there. I was there.
9 The City Attorney's Office created an ordinance that went to
10 City Council for a vote that gave their City Attorney's Office
11 the authority to hire a man who was not in the finals. And,
12 yet, there was no issue of a motion from the Department of
13 Justice.

14 So let me just explain the Department of Justice's
15 role and responsibility. Under federal statute, as I'm sure
16 you're aware of, you can't sue the federal government unless
17 you can identify there is negligence. The United States
18 Department of Justice had observers at this -- at this process;
19 so, therefore, they were fully aware of the corruption and did
20 not issue a motion to bring it before the judge and then have
21 this addressed before the Court. They are negligent. Maybe
22 they're negligent because of the fear of taking on such a large
23 process. Maybe they're negligent because of the -- because of
24 the process of those involved and their secret and hidden
25 titles that creates an alignment of agreement while

1 intellectually deceiving the public as if they are public
2 advocates. But whatever the issue is, they were negligent in
3 not bringing this court a motion when they observed the
4 corruption by the City Council.

5 The judge should request a -- request the state --
6 the Secretary of State to conduct an independent investigation
7 giving a finding as to the hiring process. The judge should
8 demand that the City of Portland give the results and the
9 number of those who were in the pool, which were all white
10 people, which is a direct conflict of the City's aspiration of
11 objective policy to ensure that all hiring pools are reflective
12 of diversity.

13 The Secretary of State needs to come in and conduct
14 an independent investigation. The Greek advocate stated, when
15 he walked in the courtroom, the judge, the district attorney
16 were all against him, and the only thing he could say is "Cui
17 bono," which stands for, as you know, "Who benefits?" That's
18 the question that needs to be answered today. Who benefited
19 from the corruption? Certainly not the volunteers.

20 The judge should demand a response from the United
21 States Civil Rights Department as to why they did not provide a
22 motion to the judge to review and address the COAB's concerns.
23 Jimi Johnson, a COAB volunteer, addressed the concerns that was
24 presented by those folks who hired -- were on the hiring
25 process. He spoke directly to Jonah. And since Jonah hasn't

1 demonstrated courage, I'm going to disclose his statement. His
2 statement was, "There's corruption on both sides." Well, for
3 God's sake, you have the power to address this, Jonah, and he
4 did not.

5 In addition, Sharon Maxwell was harassed and followed
6 by the Silver Knights, as I'm sure you're aware of, or a group
7 of white folks who are the FBI, the CIA, every level that
8 conducts secret investigations against people of color who dare
9 to say they have an opposing position, and, yet, the Department
10 of Justice Civil Rights Department has done absolutely nothing.
11 These people have worked for free.

12 The compromise. The Court did a great job balancing
13 the collecting -- the bargaining rights of officers in the
14 beginning of this process with the constitutional rights of the
15 republic; thusly, I suggest a compromise. The City should
16 continue its proposed creation of its own advisory group tying
17 up the Portland committee for community engagement policing.
18 They also -- it also should be convened under the -- and
19 that -- that proposed structure should be convened under the
20 Mayor.

21 In addition, there should be the
22 resurrection/continuation of the COAB underneath you, Judge
23 Simon, for supervision. It is clear that what has happened in
24 Multnomah County when an elected official that has the power of
25 the district attorney's office to conduct invasive secret

1 covert investigations and the former police chief, by which
2 under his leadership the violations were done, that's a
3 threatening and frightening position for anyone to go public
4 on.

5 But, yet, within that structure, there was no
6 structure process where people can file a complaint at Deborah
7 Kafoury because of fear of being harmed by those judicial and
8 those law enforcement officials.

9 And so now the suggestion, the intellectual
10 dishonesty is to put this entire process underneath a city
11 where its own city attorney's office had demonstrated a corrupt
12 process to hire a man that was not even in the finals.

13 In the words of my grandfather, "You can't snow the
14 snowman because I've been through too many seasons."

15 By having two separate entities, it would allow the
16 Mayor -- and I applaud the Mayor for his leadership in saying
17 he could take this on and being held accountable to have a
18 group of folks as he sees fits, but then it would also benefit
19 community trust to have the COAB members who dissented against
20 Rosenbaum, dissented against AMA for their nonmotion --
21 nonsupport of addressing this corruption and dissented against
22 the Department of Justice for their frightening and -- and lack
23 of courage and initiative to be under a man that this very
24 chambers says is a regulatory body of justice.

25 Now, this will bring back the integrity and trust,

1 shifting the narrative from win/lose to a win/learn for all
2 factions.

3 Let me just say this really clearly, because I think
4 it's important to recognize this point. Officers are heroes.
5 They keep our community free from tyranny and they keep us
6 safe. I don't know any black person that doesn't believe that,
7 but I do know people that do not believe that when their civil
8 rights have been violated that the -- the system will act on
9 their behalf impartially and look at the facts. So, therefore,
10 unless this is realigned, then that whole assumption is -- has
11 played itself out in the highest court in the land.

12 So now I want to address the factions that have been
13 in the news as the leaders of these particular efforts.
14 Firstly, the city attorney's office. And since you have so
15 eloquently asked me not to give direct eye contact, I would
16 like for the record to reflect that a black man is not giving
17 eye contact but that I'm under direct authority of the judge.

18 THE COURT: Well, if you want the record to reflect
19 that you are complying with my direction to make -- direct your
20 comments to me, the record will reflect.

21 MR. HALL: Well, let the record reflect that you will
22 reflect on this issue and take a look at this --

23 THE COURT: The record will reflect that as well.

24 MR. HALL: Thank you very much.

25 First, the city attorney's office, I understand the

1 role of risk management. These folks have gone to law schools,
2 spent lots of money, and they are a credit as public servants,
3 but we cannot, as James Madison suggested, believe that one
4 faction is going to have the other faction's back.

5 It has to be regulated by you, Your Honor. So,
6 therefore, when the community was upset that they hired this
7 guy that was not in the finals, then it became a position of
8 "that's what those white folks do," instead of "let us see what
9 the judge is going to do, let us see what United States Civil
10 Rights Department is going to do."

11 By initiating that hiring process, which, by the way,
12 set a precedent -- it set a precedent that there weren't women
13 in that pool, there weren't people of color in that pool, and
14 they set aside a process which took it out of a pool hiring and
15 made it an administrative hiring, which is not even listed
16 within the settlement agreement.

17 In context to the City's recommendation -- and I
18 applaud their efforts to look after their own interests, but
19 they need to be reminded that the citizen pays their
20 hundred-thousand-dollars-a-year salary. I'm not paid to be
21 here. I have not been paid for ten years of my servant
22 leadership work. I made a commitment to my grandmother, who
23 was beat by a police officer, to be an advocate for free.
24 That's why I'm here. I have not gotten an under-table
25 kickback. I'm not posting a position to betray citizens in the

1 name of regulatory authority and intellectual dishonesty, and
2 I'm not an agent propped up as a community leader -- FBI, CIA,
3 contracted for the DA's department -- as done against the Black
4 Panthers.

5 I was recruited by this -- the intelligence
6 community, and I said, "Look, I believe in Neighborhood Watch."

7 And they said, "There's something about you,
8 Mr. Hall, that everybody likes."

9 I said, "Yeah, but I believe in Neighborhood Watch.
10 But that's not my role, because I'm an advocate, but thank you
11 for the opportunity."

12 But the intellect -- the intelligence community
13 crosses the line when they bring down people whose only fault
14 is that they're standing up for rights. And if this Court
15 accepts the recommendation of the city attorney's office, then
16 you are co-conspiring with this corruption.

17 In addition, the United States Civil Rights
18 Department is negligent. The very federal code -- I flew back
19 to Alabama to talk to a retired judge, and he said, "You're
20 right. You've got to show that they were negligent and then
21 give the judge that information." And then let's see if the
22 judge has the courage to say, "I'm going to create a court
23 monitor because I found -- I found -- found corruption." And
24 then let's see the City file to the Ninth Circuit and let's see
25 the new Ninth Circuit judge, who is a political friend of

1 Walton, chief the staff, let's see him reject the position that
2 this needs to be corrected.

3 Let the Ninth Circuit make a decision. Send a
4 decision that you're not owned and controlled by Rosenbaum or
5 his hedge fund cousin which has his hands in connections with a
6 lot of people in this town.

7 In context to AMAC, I have been a follower of the
8 faith community back since my grandmother reported that she was
9 beat up by officers, and I have given my time because it was
10 pastors and ministers that supported her, but I dissent against
11 these black leaders. They did not lend the support to folks
12 like Sharon Maxwell, Avel Gordly when they cried foul, when
13 they voted to get rid of Rosenbaum, when they voted and said,
14 "This is corrupt." They stayed silent, and silence is
15 betrayal. That is betrayal.

16 Do not put your trust in any individual faction.
17 This -- justice should be where we put our trust in. In you.
18 Not -- now I understand the story of Judah [sic] betraying
19 Jesus for 30 pieces of silver. I couldn't understand that
20 story because Jesus picked Judah to be one of the 12 disciples.
21 He made him also the money man, when really Matthew should have
22 been the money man, but, yet, Judah betrayed him for 30 pieces
23 of silver.

24 The power of these kickbacks are too powerful. I
25 encourage you to take the leadership role and realign this and

1 send it to the Ninth Circuit.

2 To AMA: Rosenbaum should not have been supported. I
3 was in the interview and I saw faith leaders from AMA support
4 Campbell who was actually the undercover pick by the good ole
5 boys, and he publicly said that, "Oh, by the way, I want to let
6 everyone know that one of the -- in the previous interview, I
7 promised one of the folks that were interviewing me a
8 contract." He said this in front of a black pastor who should
9 have said, "You're out of here because I would never go for a
10 black man to be able to promise a kickback for a job and be --
11 be" -- and he was allowed to move as one of the final two to
12 the City Council which did not consist of Rosenbaum.

13 This process has been corrupt from the beginning. No
14 women, no people of color.

15 So with that said, as I finish, to answer your
16 question about your authority, of which I call into question
17 because you're incorrect, I suggest, Your Honor, that you look
18 at *Marsh*, 490 U.S. 360. Case No. 87-1704, argued January 9,
19 1989, decided May 1st, 1989, *Marsh v. Oregon Natural Resources*,
20 where the Court cited: Most often new information is
21 sufficient for new analysis when new information or
22 circumstances could result in a significant different outcome.

23 If you combine this Oregon statute with the violation
24 statute that identifies when the federal government is
25 negligent, then that gives you the authority to issue a court

1 monitor and to address the corruption.

2 In conclusion, I want to say something about
3 Dan Handelman. I want to say something about the other
4 volunteers. I was a public advocate for one of the biggest
5 cases, Kendra James, and I stayed in the shadows. I was the
6 one who got Ernie Warren to sue the City for her shooting, and
7 I stayed in the shadows. To be a public advocate in this town
8 where the weapon is secret covert investigation to put in to
9 teach as a secret database with intellectual dishonesty when
10 things are manufactured against people says that people like
11 Dan Handelman are great people and that you don't know the risk
12 until you have been on the other side. You don't know the
13 risk. I was followed. I was followed by white men with my
14 mother crying, saying, "Why are you" -- "Why are you doing
15 this? Why are you advocating for these white people and these
16 black people? They're not going to do anything for us.
17 They're not going to do anything." And I said, "Because they
18 beat my grandmother up." And every single time I can stand up
19 and call out injustice, I'm going to do it, and I don't give a
20 damn how many black people are bought off under the table or
21 how many judges don't have the courage to correct this process
22 or the intellectual dishonesty from the City.

23 I respect you because you stood up against the
24 corruption and asked for independency.

25 THE COURT: Professor Hall.

1 MR. HALL: Thank you very much.

2 THE COURT: Thank you, Professor Hall. Let me tell
3 you, I will take a look at Marsh v. Oregon Natural Resources at
4 490 in the United States Reports at page 360. I'll take a look
5 at it. But let me also tell you if you wish to file something
6 with me in writing to give me a further analysis of what my
7 authority is, you're welcome to do it. You're always welcome
8 to do that. You and anyone else is always welcome to file a
9 petition for amicus status, and I'll follow that -- I'll rule
10 on that in connection with and consistent with the Oregon
11 Rules -- excuse me, the Federal Rules of Civil Procedure.

12 And, finally, if for whatever reason I conclude that
13 I don't have the authority to appoint a court monitor or to
14 order the Secretary of State to conduct an investigation, you
15 still, sir, always have the authority to petition the Oregon
16 Secretary of State to conduct such an investigation, but I am
17 quite confident you understand that. But I will take a look at
18 the authority you cite now and any other authorities that you
19 may submit in the future.

20 I thank you for your time and your passion.

21 MR. HALL: Sir, I don't mean to disrespect your
22 courtroom, but it's time when an elected official can call a
23 black person a "B" and there's no place to file a complaint.
24 And those folks making a hundred thousand dollars a year can
25 suggest by placing a sacred process underneath the supervision

1 of a city -- of an entity, that that's okay and that's
2 appropriate? Well, in the words of my grandfather, you can't
3 snow the snowman.

4 THE COURT: One way to deal with a complaint also is
5 through the ballot box.

6 MR. HALL: Well, sir, it's easy for a white man to
7 say that.

8 THE COURT: I know --

9 MR. HALL: No, let me explain this.

10 THE COURT: Okay.

11 MR. HALL: I ran for office twice here. Twice. So
12 obviously you have not done your research on me. I ran for
13 Multnomah County twice and I finished last. The City of
14 Portland is made up of 95 neighborhoods. There are no
15 single-member districts. So, therefore, if you are not a House
16 negro sellout, you -- you frighten the majority of the folks
17 and you don't get into office.

18 And the City -- with the exception of Ted Wheeler and
19 the new City Council Commissioner, Chloe, all of the three had
20 said they are against the creation of single-member districts.

21 So when you make the recommendation about running for
22 office, you do it as a perspective of a white man, not someone
23 on the front line as a public advocate, sir. So I question
24 your position.

25 I suggest that you use your authority to address this

1 corruption and let those folks who are advocates bring the
2 information to you because it is intellectually -- intellectual
3 dishonesty to think that the black man that's a public advocate
4 that speaks truth to power is going to be elected in the city's
5 95 neighborhoods when you have an intelligence community that's
6 out there every day discrediting black men that are not on
7 their payroll.

8 THE COURT: Thank you, sir. I appreciate your
9 comments and your passion.

10 Okay. Next I would like to hear -- and this is just
11 in the order that it was presented to me -- Jo Ann Hardesty,
12 Ann Kasper, Kalei Luyben, Nancy Newell, and we'll end with
13 Bora Harris.

14 And welcome, Ms. Hardesty.

15 MS. HARDESTY: Thank you, Judge Simon. Thank you so
16 much for the opportunity to speak to the Court today. As you
17 know, I've been involved in this process since the beginning,
18 but I want to be clear for the record that I'm speaking as
19 Jo Ann Hardesty, Consult Hardesty, and not on behalf of the
20 coalition.

21 I can assure you if there were secret payouts, I
22 didn't get my fair share, because I have spent thousands of
23 hours in dark conference rooms reviewing policy documents and
24 debating whether or not we were moving forward with reform.
25 And so I just want to put on the record I want my money because

1 I need it.

2 And in all seriousness, Judge, we are at a crossroads
3 here in Portland, and we are at a crossroads where the
4 community has less faith in the Portland Police Bureau today
5 than it did in 2012 when we started this journey with the
6 Department of Justice. And I do not believe that what you have
7 been presented today will do anything to change that dynamic.
8 There are many reasons why we are at this crossroads today.
9 Primarily is that the public cannot trust any information that
10 it receives from within Portland Police Bureau. There's only
11 been several times in the last 25 years that I have had the
12 opportunity to review impartial information collected by
13 outside individuals with no relationship inside Portland Police
14 Bureau. That was -- the first time was when the Department of
15 Justice Civil Rights Division came in 2012, and that's when we
16 found that Portland -- after the investigation, that Portland
17 police used excessive force with people with mental health
18 issues and people perceived to have mental health issues.

19 I still cannot for the life of me understand how in
20 good conscience the U.S. Department of Justice Civil Rights
21 Division thought that the solution to that was putting Portland
22 police in charge of being first responders for people with
23 mental health issues.

24 What did we learn since 2012? Every single person
25 killed by Portland police since the Department of Justice Civil

1 Rights Division showed up has suffered from a mental health
2 issue.

3 Now, if it's true -- and this is true -- we've spent
4 tens of millions of dollars. And Portland Police Bureau since
5 2012 focused on this negotiated settlement agreement that, by
6 the way, the community didn't get to weigh in on the answer.
7 The community only got to weigh in on what the problem was. So
8 it was negotiated behind closed doors, presented to the
9 community, and you know the history after that.

10 So here we are now with another proposal -- and let
11 me back up a little bit. Since 2012, I have stopped the City
12 of Portland from spending millions of dollars because different
13 Portland police leadership has showed up at City Council
14 saying, "We've got to do this because of the settlement
15 agreement."

16 I've had to actually read the settlement agreement
17 several times at City Council chambers so that the City
18 Council, who was supposed to vote on it, would know that the
19 settlement agreement said just the opposite of whatever that
20 particular police chief was trying to sell to the City Council.

21 Once I stopped my -- Mike Marshman from buying body
22 cams because he told the City Council they were just looking at
23 them. They weren't just looking at them. The vote would have
24 required them to go out and buy them right after that City
25 Council vote.

1 And so when I tell you that the public cannot believe
2 anything that comes out of Portland Police Bureau -- I hope
3 you've seen the auditor's report. I'm so grateful that we have
4 an independent auditor at the City of Portland. I've reviewed
5 the report on the Gang Enforcement Unit that operates in
6 Portland Police Bureau. In my mind, it's always been one of
7 those units that we were just supposed to trust that the police
8 knew what they were doing. It is my belief that Portland
9 Police Bureau gang enforcement officers wouldn't know a gang
10 member if they fell over one. Especially if they were not
11 African-American. This report shows how dishonest the police
12 officers who are sworn to protect and serve us all really are.

13 When 90 percent of the people you encounter out of
14 1,800 stops are African-Americans in a city with a six percent
15 African-American population, even if you believe the police
16 that gang activity happens between 12 and 24, how many times do
17 you stop every 12- to 24-year-old black child in the city of
18 Portland to get to such egregious numbers?

19 What is most disturbing is there's no intellectual
20 curiosity to find out why this is. Thankfully, the auditor
21 took a very deep dive. And what the auditor found was that
22 there's no criteria. There's no supervision of these 28
23 officers. They couldn't even describe what the process was
24 they used to stop someone and question them. They don't keep
25 records at all, and they had the arrogance to have several

1 reasons why their records were incomplete. One is they're too
2 overworked to actually do the paperwork, and the second one is
3 they're not required to justify why they pull people over.

4 So the Mayor has been on this public relations
5 campaign saying we need 93 more police officers. I have 28
6 that need to be retrained and then they could be deployed as
7 community police officers -- maybe. If they take to the new
8 training.

9 So what I'm here to say to you, Judge Simon, is that
10 whether or not you accept these proposed amendments, I think we
11 have to be honest and say that this experiment With the
12 Department of Justice Civil Rights Division was a colossal
13 failure. It failed to protect community members. It failed to
14 address the racial profiling that is rampant in the city of
15 Portland. It failed to hold police accountable for how they
16 interact with community members.

17 I know you cannot comment on the death that happened
18 a week ago Saturday, but let me tell you without an independent
19 community member with the wherewithal to videotape what was
20 taking place, we, the public, would have got a spin from
21 Portland Police Bureau after the grand jury, which they always
22 do, exonerates the police officers involved.

23 We would have been told that it was just this -- they
24 had no choice because they were in fear of their life or in
25 fear of someone else's life.

1 What that video showed was chaos. What it showed was
2 a man in mental health distress not -- stabbing himself in the
3 neck. What it showed was that police officers came in yelling
4 and screaming and demanding that someone in mental health
5 crisis respond like a reasonable person would do.

6 Now, my understanding is every single police officer
7 in Portland Police Bureau has had some mental health training.
8 All of them are supposed to be able to identify people in
9 mental health crisis and be able to deescalate. Nothing in
10 that video showed any deescalation tactics at all. In fact,
11 what that video showed was people running because they were
12 fearful of being shot by all those officers showing up with
13 shotguns.

14 Now, if 20 police officers cannot take one person
15 into custody suffering from a mental health crisis, then hiring
16 93 more police officers won't do a darn thing to keep our
17 community safe.

18 We are in crisis. I absolutely do not believe that
19 this new proposal will do anything to mitigate that crisis. I
20 am pleased we have a new police chief that I believe her
21 heart's in the right place. Just put her leadership team in
22 place. And as I have done over the last 26 years, I will
23 continue to work for reform when I see police officers and
24 police leadership that are willing to do that. I have worked
25 under eight police commissioners, 14 police chiefs, and the

1 culture of Portland Police Bureau has not changed one iota. It
2 is a culture of "We know best. We will tell you where crime is
3 happening. We will tell you how much money we need to solve
4 it," and then if you question anything, then the implication is
5 you're somehow antipolice.

6 I want everybody to go home from an encounter with
7 the police. I think it is absolutely inexcusable that people
8 who are running away get shot in the back and the officers are
9 cleared. I think it's inexcusable that someone suffering a
10 mental health crisis inside a sanctuary faith-based institution
11 could not have had a different outcome. I -- you know,
12 Chief Outlaw, she has a huge job, and I just can't imagine
13 coming in, and not having created this mess, and now having to
14 correct what's going on.

15 It is -- my request of you, Judge Simon, is that you
16 declare that the settlement agreement is a colossal failure.
17 It has not met the expectations of the community that called
18 the Department of Justice Civil Rights Division here, and I
19 think we have never even talked about why the community
20 originally called the DOJ here.

21 We called them because we were concerned about what
22 was happening with black and brown men and boys at the hands of
23 Portland police. The little tiny piece of the settlement
24 agreement that was supposed to address that, as you can tell,
25 the parties didn't even mention that today. So the Office of

1 Equity and Human Rights, a human rights subcommittee on police
2 and community relations, was supposed to monitor and track all
3 the stop activity that happens in the city of Portland and
4 report back annually to the community. It hasn't happened.
5 The committee doesn't exist. The Human Rights Commission
6 doesn't even talk about this subcommittee anymore. There's
7 nothing in front of you that actually addresses the -- the
8 racial profiling that is taking place in this community.

9 And the fact that the Mayor's office and the DOJ --
10 because when the public finally got a chance and only a few of
11 us in the public, the City Council and the DOJ had already
12 decided what they were going to do and, once again, really
13 refused to take real input into this. So it's kind of a
14 misnomer to say that we're all singing Kumbaya about what we're
15 being asked to accept, because, quite frankly, the DOJ and the
16 City of Portland's idea of partnership has let us decide,
17 because we know best, and then we'll come let you know what
18 we've decided and then encourage you to support what we've
19 decided to do.

20 Judge Simon, I'm concerned that we have created a
21 culture in the city of Portland where we cannot trust any
22 information released from the Portland Police Bureau. Today
23 54 percent of the City of Portland's general fund budget is
24 spent on policing, and I don't know anyone who feels that they
25 are safer today because of the huge investments of money that

1 we have made in the settlement agreement previously, and I am
2 concerned that even though every City Council member has to
3 vote on the budget, the fact that we are limiting this to the
4 mayor's oversight is very problematic for a community that
5 knows that sometimes we have good police commissioners and
6 sometimes not. We've had a lot of one-term mayors, so who
7 knows if we'll have another one-term mayor, which means the
8 next mayor who comes in could totally change this process.

9 It does nothing to make me feel better that this
10 would outlast a settlement agreement, and, quite frankly, the
11 settlement agreement has only one year left. Let's just call
12 it a failure today. Let's start investing money where it
13 really will make sense. Right? Let's get mental health
14 professionals to be first responders for people with mental
15 health issues. In fact, I even proposed let's get
16 firefighters. Because I don't know about you, but when I see
17 firefighters coming, I see help is on the way; when I see
18 police officers running, I'm not sure who's going to survive
19 that encounter. I'm pretty sure the police will, but I'm not
20 sure community members will.

21 We have a flaw in our system. I have been able to
22 train at the Department of Public Safety Standard and
23 Practices, and what I know from my training of law enforcement
24 officers around the state is that law enforcement officers
25 learn from each other and from community members when they're

1 allowed to do so.

2 I think our biggest flaw is that Portland police
3 trains themselves and they don't listen to anybody else, and
4 they don't want community input. In fact, Mike Reese,
5 currently Multnomah County's sheriff, told me he couldn't let
6 me in that training facility because I would tell the criminals
7 their secret; whereas, I can train at the state level. I can
8 train law enforcement officers all around. And let me tell you
9 a secret. The officers are better because the community has
10 been involved in the training. The officers are better because
11 they learn from other officers who's had different experiences.
12 The officers are better because they're open to actually
13 learning new information. When you create a culture that says,
14 "We know best. Just give us money and go away," then you get
15 what we get here in the city of Portland.

16 So I -- in closing, I just want to say, Judge Simon,
17 I greatly appreciate you and your wisdom, and I know that you
18 have very limited ability in this process, but I hope you will
19 add a number four to your list. I would support number three
20 if that's the only option we have, but I hope you would add a
21 number four, and number four would be let's just call this a
22 failure. Let's just go back, regroup, and figure out how do we
23 make sure that we have constitutionally just policing for
24 anyone in the city of Portland, regardless of whether they're
25 houseless, regardless of the color of their skin, regardless of

1 what country they were born in. How do we make sure that
2 anyone who encounters a police officer gets to go home or jail
3 or wherever else they get to go, but they get to live through
4 the encounter.

5 Nothing you heard today actually leads us to a safe
6 community where we can trust the people who were sworn to
7 protect and serve.

8 Thank you so much for listening.

9 THE COURT: Ms. Hardesty, thank you -- I have a
10 question. Thank you for your comments, your insights, and
11 you've made some very broad comments, bold comments, as well as
12 some specifics. I have a specific question for you.

13 MS. HARDESTY: Okay.

14 THE COURT: You mentioned early on in your comments
15 about body cameras. You are correct that the settlement
16 agreement is silent on the issue of body cameras, but we have
17 discussed that here previously.

18 MS. HARDESTY: Yes.

19 THE COURT: Based upon your insights, your training,
20 and your experiences, what is your view as to whether body
21 cameras are a good idea or not?

22 MS. HARDESTY: Well, thank you for the question,
23 Judge Simon. The last time you asked me that question I told
24 you that I did not support body cams because my lived
25 experience is community members with cameras serve a much

1 better community purpose than outfitting police officers with
2 body cams. However, since the last status update, you have
3 heard that the police union contract was open and renegotiated
4 in secret. And when it was renegotiated in secret, our former
5 mayor Charlie Hales actually gave away oversight of body cams.
6 What was given to police officers? And even though we still
7 don't have body cams at all, right, the policy said that police
8 officers would get to review any body cam footage prior to
9 writing a written report.

10 Now think about that. If this is supposed to be an
11 accountability tool, why in the -- why in the world would a
12 police officer need to review body cam footage before they
13 wrote down what happened in that incident? Right? So, again,
14 accountability had been totally taken out based on the
15 behind-the-closed-door negotiations with the former mayor.

16 And so to -- and I should say that Portland Police
17 Bureau continues to spend money as if at some point they're
18 going to have body cams, but I don't know anyone outside of the
19 police bureau that thinks allowing police to be review body cam
20 footage before writing a written report and then reviewing any
21 camera footage available before they're investigated by IAD
22 does anything to create accountability.

23 So why would we spend millions of dollars to buy body
24 cams and the only people that see the footage is the police?

25 THE COURT: You raise a fair point and those are fair

1 questions in the procedures for dealing with body cams, and
2 another problem is how will you retain the data and who will
3 have access to it even afterwards? But some of the studies
4 that I have read from other jurisdictions seem to point to the
5 positive conclusion that both an officer's behavior as well as
6 the person they're interacting with, their behavior changes in
7 a positive way when everybody knows that there's a body camera
8 in place. Do you disagree with that?

9 MS. HARDESTY: I totally disagree with that,
10 Your Honor. All you have to do is look at the body camera
11 footage from New York. All you have to do is look at what
12 happened in Dallas. And what you know is that it does not, in
13 fact, change officers' behavior at all -- at all. When a man
14 can say to a police officer, "I have a concealed weapons
15 permit. I'm following all your orders," and still be dead.
16 When a child can't play on the playground without a police
17 officer rolling up with body cam footage rolling and shoot the
18 kid dead within 30 second of the stop. I have absolutely no
19 confidence at all that what -- the return on that public
20 investment will do anything to make the community feel safer
21 and more comfortable, and it's just a waste of money, and,
22 quite frankly, most police bureaus bought it based on a Rialto
23 study that was paid for by Taser, who was trying to sell body
24 cameras to as many police departments as possible.

25 Now, there'd been other studies since then, but most

1 of the studies since then say there's been no depreciable
2 difference between what happens when officers have body cams
3 and when they don't.

4 And I can certainly say from watching some of the
5 body cam footage, I've certainly seen no change in behavior and
6 certainly no change in the outcomes for community members who
7 have been harmed or killed while police were wearing body cams.

8 THE COURT: Thank you, Ms. Hardesty. As always, I
9 appreciate your comments.

10 MS. HARDESTY: Very welcome.

11 THE COURT: Thank you. I want to hear, please, from
12 Ms. Ann Kasper, followed by Kalei Luyben, followed by Nancy
13 Newell, and then concluding with Bora Harris.

14 MS. KASPER: Good morning, Judge Simon. I'm
15 Ann Kasper, K-a-s-p-e-r. And I may need more than five
16 minutes, too, so we'll just see how it goes. Okay?

17 THE COURT: Okay.

18 MS. KASPER: I'm a person who has many definitions.
19 Unfortunately, one of them that the community has given me is
20 SMI. Do you know what SMI is? Severely mentally ill.

21 THE COURT: Oh, okay.

22 MS. KASPER: So, yeah. I like to call it "smee." It
23 sounds funnier. I have been in the hands of the police. I
24 have been in the hospital system 19 times. I also have a
25 master's in sign linguistics and an undergraduate in economics,

1 and I speak four foreign languages. And it's sad that I have
2 to say that to demonstrate to people that they should treat me
3 as an equal. And I'm here because I'm hoping -- we're in a
4 strange situation in Portland right now. We're changing very
5 much with a hundred people moving in a day. And, also, my
6 family has been here for 120 years. I'm here for dignity and
7 quality for everybody, and I'm just so grateful to you, Judge
8 Simon, for allowing us to speak because those of us who are
9 from the mental health community who actually have been
10 organizing since 1969 in Portland for civil rights and human
11 rights for us have not been listened to.

12 If I have time later on, I will talk about the co-op
13 hiring process, how my community's recommendations were not
14 listened to by the last mayor. Just like the professor is
15 saying, I believe his community recommendations were -- my
16 community recommendations were to go back and -- I wasn't
17 involved in that, but they had mental health advocates and
18 professionals working together, and all of them said please --
19 they were on the mayor's committee -- committees to chose who
20 was going to be the COAB. All they said was go back and do
21 another national search because none of them could be good for
22 mental health. And, unfortunately, we've seen that, so -- but
23 that's just one thing.

24 So I am recommending that you provisionally accept
25 the recommendations with some conditions. And I realize the

1 conditions I'm going to ask for this morning may be nothing you
2 can do, but I'm going to say them anyway. And so one -- one
3 thing is that I would like to get the status or the data of how
4 many people have been taken from this Unity Center for
5 Behavioral Health Care to jail. So I have personally witnessed
6 three people being taken, looking for mental health help, taken
7 from the hospital to jail. So I -- and I asked the Mayor and
8 also the -- Chair Kafoury in October. I gave them a list of
9 ten data questions, asking those kinds of questions, because we
10 need to know what is happening in the mental health realm. If
11 people are literally asking for mental health help and being
12 taken to jail, that doesn't work very well, does it?

13 So I -- I gave -- I'm part of a committee now for
14 about 12 years called the Local Public Safety Coordinating
15 Council, and that has a mental health subcommittee which has
16 DAs, which has all the mental health people, and one me. One
17 person with mental health issues on it. I've been there for 12
18 years, and I wanted to get this data. They still haven't given
19 it to me. So if I can ask for that, that would be great.

20 We would also like --

21 THE COURT: Where does that data reside?

22 MS. KASPER: You know, it's very confusing because,
23 if you ask the police, part of it is they would have to figure
24 out -- go to the records for the area of the Unity Center,
25 which is on 1225 Northeast Second Avenue. Go to there and

1 find -- look at the arrests, and, I mean, I could give you the
2 information from my personal observations there. And I also
3 have videos and pictures I took. I was hoping to use them to
4 help train the police and just do it inside and not bring it to
5 the federal government, but they haven't gotten back to me on
6 that, unfortunately, so I could give that to you.

7 But I think what you're going to have to do is ask a
8 couple of different systems. That's the problem. It's not
9 just one system. You have to go to the police system and then
10 go to the jail system. And my question was always, too, well,
11 once I get in the jail system, is their care the same as it was
12 in the hospital? Do those records of what medications are
13 taken carry over to the jail system? That hasn't been answered
14 either.

15 So another thing I would like to ask for, my
16 colleague Jason Renaud here -- I think you've talked with him
17 before -- and I at a meeting which was -- I don't know. It's
18 not the COAB, but they have some community meeting about the
19 PCCEP and May 1st, and we had mentioned that we have never been
20 able to meet with the chief of police. And we, as mental
21 health advocates and leaders, are asking for that.

22 I gave my phone number to the Chief's assistant that
23 night. It was May 1st. We still haven't heard back. I
24 believe also Jason Renaud had a letter with the chief of
25 police. So let us speak from the mental health community's

1 side. And I was very excited to hear from you today that we
2 could actually ask for amicus status. I didn't know that. If
3 I had known that and my community had known that years ago, we
4 would have asked for amicus status as mental health leaders.

5 THE COURT: I've been trying to follow the Federal
6 Rules of Civil Procedure since the beginning of this case.

7 MS. KASPER: So one of the problems is we don't have
8 a lawyer. We don't have money for a lawyer, so how do we do
9 this?

10 THE COURT: That's a bigger problem than just you and
11 your organization and this case.

12 MS. KASPER: Yes.

13 THE COURT: There's a bigger problem in this society
14 with people not having access to justice because they don't
15 understand the legal rules, and we're trying to figure out what
16 to do about that.

17 MS. KASPER: Thank you.

18 And I know you can do nothing about this, but I'm
19 going to say it anyway. I wanted to go watch my friend's civil
20 commitment hearing. They changed it from the courthouse
21 downtown to the Unity Center for Behavioral Health.
22 Unfortunately, that room is so small that her mother and I, my
23 friend, were asked to leave and were not even allowed to watch
24 that court hearing because they needed the seats for the
25 sheriff's deputies.

1 So this person was alone in the court with nobody
2 watching her who loved her. So let's maybe -- maybe it's too
3 small to have the court there, so let's think about human
4 rights.

5 I know you can't do anything about that, but I
6 thought I would mention that.

7 So also I have been involved since 2006, when
8 James Chasse died, in helping to train the police. And I have
9 to say, honestly, for mental health, that the culture has been
10 better. I personally have been treated better, actually,
11 throughout the years. I mean, it's been 12 years. Hopefully,
12 they've gotten -- they have gotten better. And I helped train
13 9-1-1 officers -- 9-1-1 callers. And let's say that 30 to
14 40 percent of the calls every day actually do have to deal with
15 mental health. So every day on an everyday basis, Portland
16 police are doing a good job. We just don't hear about those
17 good stories. I did want to say that, that there is some
18 positive things here.

19 Something that's happened in the city government and
20 county government, so like many people before me, like many
21 people speaking today, are not paid. Right? There is nobody
22 speaking from a mental health perspective, from my perspective
23 or my community's perspective, paid for, let's say, in
24 county/city government. The City itself seems to deny that
25 even mental health exists. So you've got the houseless, you've

1 got this county/city 10-, 12-person thing they paid on
2 houselessness. Nobody has mental health expertise.

3 So what I'm asking for is we get a mental health
4 liaison with the County and the City. As they're making
5 training, as they're making any kinds of things that our voices
6 are heard that are reasonable thoughts are heard, and I know
7 that -- I've worked inpatient as a peer support specialist, and
8 it -- it gets scary. So when people go into mental health
9 crisis, sometimes they go into power, they go into things --
10 and even myself -- that is beyond what we're used to, and it is
11 a scary thing. I can understand where officers go directly
12 into fear.

13 So how do we teach people, instead of going directly
14 into fear, into working with people?

15 The ECIT training only has -- so we have 40 hours of
16 ECIT, which is enhanced training, as you know. I helped create
17 that training. Only has 90 minutes -- out of 40 hours, 90
18 minutes with people like me.

19 People like me can actually help explain how to work
20 with us, how to do it. I think people are doing the best they
21 can, and mental health scares people, and that's why they
22 haven't hired anybody in the City who has a mental health
23 issue. They're just scared of it. There's such a strong
24 stigma that we can't even get in as professionals.

25 But the County, finally, last year just hired two

1 people. Once we have our voices, we can actually help train
2 you and not to be afraid, how to talk to people, and move on.

3 So I would like to say thank you to AMA and
4 Dan Handelman, Copwatch. And at first they didn't talk about
5 mental health issues at all, and lately, within the last year
6 or so, they are actually talking about it.

7 I kind of thought that this hearing was about mental
8 health. And when I would go to the COAB meetings, because I'm
9 actually friends with the police people, I'm friends with
10 everybody, I would go there and have their good artichoke dip
11 that was really good, and -- but also be able to see my friends
12 from all these different sides, with all their different
13 agendas, really wanting to work together.

14 So maybe, yes, it was a failure in certain respects.
15 In other respects, some people actually got to know each other
16 and listen to each other. That's the only way we're going to
17 change this. As you've been asking for, is dialogue with
18 people. That's what we need is dialogue.

19 So I would -- let's see, anything else I want to ask
20 while I'm up here?

21 I -- I would like also -- so the, unfortunately --
22 and I helped create the Unity Center for Behavioral Health
23 because of the prejudice against people like me. They wouldn't
24 pay me. I was doing executive-level work for about two years,
25 and it has not turned out to be the place we had hoped for. I

1 am actually personally embarrassed I worked on it. It's -- it
2 needs to be held accountable. It's not the treatment that --
3 it's honestly the worst treatment I've had in 30 years.

4 THE COURT: What needs to be done differently?

5 MS. KASPER: First of all, do not have a room with 30
6 people in mental health crisis all together with no separation
7 between men and women. They just dump them in there. You're
8 observed by people. That doesn't cause healing.

9 What causes healing is, yes, maybe having a few rooms
10 where you can relax. What causes healing also is -- I don't
11 know if people told you about peer support specialists? That
12 helps. So I will give you some documents on peer support
13 specialists.

14 So what happens with the medical establishment, they
15 look at us, observe us, like insects and animals, and say this
16 person has this. I've gotten so many diagnoses that I can't
17 keep track of them. But we can also heal.

18 So if someone sees us with that thing of hope, you
19 can make it through. You will get out of this. You will get
20 out of psychosis or depression. That is what changes things.
21 When this whole system is just -- what we do in this culture is
22 we try to control everything, and you -- you can't control
23 mental health issues.

24 A quarter of the people in the city will be going
25 through a mental health crisis at some point in their life.

1 That's just the statistics.

2 So it's not about -- it's about believing people.

3 It's about creating a safe space for them to be in. It's about
4 having the good doctors, having the good peer support
5 specialists, having support for families. There is no support
6 for families in this city. There's the National Alliance on
7 Mental Illness. I answered phones there for six months -- I
8 mean, six years. Basically, even my family who needs support,
9 there's no one to support them. We need money and support for
10 the supporters to keep up assistance.

11 So I would say there's some provisions here, and I --
12 I was just -- it's so interesting to listen to other people's
13 testimony. Let's bring it back to mental health if we can at
14 this point. I appreciate your work. Thank you.

15 THE COURT: Thank you very much, Ms. Kasper, I
16 appreciate your comments.

17 Ms. Luyben, followed by Ms. Newall and Mr. Harris,
18 and then a recess.

19 Thank you.

20 MS. LUYBEN: Hello, everybody. I think it's about
21 time for a little bit of a Hawaii vibe in this room.

22 THE COURT: Although, Ms. Luyben, can I ask you the
23 same thing I asked Professor Hall. Please direct your comments
24 to me. Please. Thank you.

25 MS. LUYBEN: Aloha to you.

1 THE COURT: Aloha.

2 MS. LUYBEN: What I would like to express to you is
3 the concept that we all should breathe together because the air
4 is the breath of God, and when we breathe together, it helps us
5 to become more sacred. And when we become more sacred, well,
6 we become less idiotic, for one thing, and we start to mellow
7 out, and this room does need to mellow out, Your Honor.

8 The really, really first thing that I want to say to
9 you is this is the only place that the community is welcome.
10 The only place in the city that the community is welcome to
11 speak truth. The only place that the community is welcome.

12 That's a hard thing for me to say, and I know it's a
13 hard thing for you to hear. When I read what the City had
14 directed toward you personally -- and I -- I do a lot of
15 research, and sometimes I get lucky and find something
16 important. I was sick for about three days to hear accusations
17 directed against this court that were so inappropriate, so
18 unacceptable, and I would like to apologize to you because it
19 hurt me.

20 THE COURT: I appreciate the sentiment.

21 MS. LUYBEN: I know you do.

22 THE COURT: One of the -- the acts of genius of our
23 Founders is to give the federal judiciary the independence of
24 basically life tenure, and with that comes not only
25 responsibility but a really thick skin. So I'm not worried

1 about those comments. So let's move on to today's agenda, but
2 thank you.

3 MS. LUYBEN: Maybe I need a thick skin, then.
4 Perhaps that is the cure to that particular problem.

5 What I -- I had not intended to speak today until you
6 put a question to all of us, and then you asked us to answer
7 the question. And I would like you to retain as much
8 jurisdiction as you possibly can over this case for the reason
9 that I started out with. This is the only place that the
10 community gets together and speaks, and I have to say that I
11 agree with all of the previous speakers. I have been working
12 on this since 2010. But the other thing that I would like to
13 call to your attention is the fact that in 2010 I first met
14 Dr. Haines at the First Unitarian Church, and he said we're at
15 a crossroad in history. Jo Ann says we're at a crossroad in
16 history. I think it's the same crossroad, and I'm happy that
17 you're here with me now, but that's about the only thing that's
18 been added in a positive manner. The community has been here
19 all along, and you're here, and that's the big benefit that we
20 have obtained.

21 So I guess the other thing that needs to be said is
22 the conscience of America is in the people, and unless the
23 people are there, there will be no conscience. There's no
24 Department of Conscience anywhere. There's no Office of
25 Conscience anywhere. And so the people have to be there if

1 justice is going to be obtained.

2 So what has been really grating on the City, besides
3 how long we've been going through this and how exhausted we
4 are, is the fact that we only have about three basic choices at
5 this crossroad today. One is revolution, and that takes place
6 out in the street when people can't gather together like in a
7 room like this and actually resolve our conflicts. So some of
8 the people of America don't mind having a revolution out in the
9 street. That's not my preferred option, but I have to hear the
10 community saying "unless." Okay. Unless what?

11 I've been working on reform, but unless the City of
12 Portland wants to actively and honestly participate in reform
13 with us, then we're going to have a revolution.

14 What I'm hearing now, which is really, really
15 surprising to me, but it shouldn't have been, is something
16 called abolition. The enormous sums of money being spent on
17 police forces and the criminal justice system, these sums of
18 money are so huge, the thought is if we get rid of these
19 expensive systems and spend the money instead on solving the
20 problems of the people, we -- we have to deal with the fact
21 that what everybody wants and what everybody needs is something
22 very basic and something very human. And that humanity should
23 be in this room right now, and it shouldn't be so difficult for
24 us to devise some creative plans.

25 So one of the things that I did after the COAB was

1 shut down was to do some research on something that's called
2 value policing. That was so enlightening and that was so
3 informing to me that there are professional police officers who
4 believe in compassionate policing, who believe in integrity,
5 who believe in accountability. And so I see it as entirely
6 possible that we could all actually get together and agree that
7 our community values -- that's what we actually want to do. We
8 want to -- let's just pick the one -- my favorite word is
9 "integrity," and my basic definition for "integrity" is always
10 doing the right thing even when nobody is looking. Even when
11 nobody is going to ding you on the head. But doing it because
12 there's something in you that wants to do the right thing.

13 So I have a lot of hope, even though I'm up here
14 saying, no, I -- you know, I'm really suffering. I have a lot
15 of hope because of this community, because of the people who
16 are participating, that we probably could solve our problems,
17 and we would like to ask you for your help and for your support
18 in that. So I would like you, if at all possible, if the U.S.
19 will be tolerant of my request, please support -- please
20 support Judge Simon continuing to be our official monitor for
21 us.

22 Thank you so much, Your Honor.

23 THE COURT: Thank you, Ms. Luyben. I appreciate your
24 comments. Thank you for being here.

25 Ms. Newell, followed by Mr. Harris, followed by a

1 recess.

2 Welcome, Ms. Newell.

3 MS. NEWELL: Thank you. My name is Nancy Newell.
4 All the work I've done is volunteer. My mother was city
5 treasurer of a baby booming town outside the Twin Cities in
6 Minnesota. She served faithfully 16 years, had the most
7 accurate books in the state, and a corrupt city manager
8 overtook her job. She made \$75 a month with six children to
9 support. And that experience led me, as well as I.F. Stone
10 criticizing the military, to being an activist for free
11 whenever I could.

12 And the issue of water, especially in this town, has
13 a relevant story to this whole situation. Our mayor is the one
14 that privatized our water. Our drinking water. What leads to
15 mental health issues primarily in young children is the lack of
16 water. Poor people can't provide water because it's becoming
17 so expensive. He set up the WCX, the West Coast Infrastructure
18 Exchange. He set it up in the state legislature as state
19 treasurer. A unanimous vote, if you can believe it. And I
20 brought it there, and they kicked me out of his office. I
21 didn't do anything illegal. I just asked for information.

22 So all I got was false stories. Robert McCullough.
23 I don't know if you've seen his name in the news lately. He's
24 been doing a lot of things to reveal some of the interior
25 accounting that's done to do some of this kind of cheating and

1 this kind of horrible effect on mental health in our community.

2 So what you're dealing with, what the courts are
3 dealing with, what the community is dealing with, is directly
4 involved in our mayor, who is police commissioner.

5 THE COURT: Let me ask you, because I do know about
6 the connection between lead in water and --

7 MS. NEWELL: Yes.

8 THE COURT: -- mental health issues. I'm not quite
9 sure, other than lead, the issues that you're describing.

10 MS. NEWELL: The lack of water?

11 THE COURT: Yeah.

12 MS. NEWELL: And access it to? I mean, it's a human
13 right, according to the UN. And I've raised that at City
14 Council. So I have followed his career and his complete lack
15 of respect of the COAB process when he first came in, and he
16 sat in on one of our COAB meetings and said this process is
17 virtually over, if I remember. I don't know that I'm quoting
18 him exactly, but it was something to that effect. And I went
19 to him afterwards. He was riding his bicycle, and I commended
20 him for that on his way home, and I just happened to run into
21 him, and I said, "I'll be visiting with you, and you'll be
22 hearing from me."

23 So I have proceeded to bring to the attention of
24 every official I can that the depth of this problem has a
25 source and a preventative aspect to it that this community is

1 not paying attention to. Especially because you are virtually
2 bankrupting the ability of families to survive and provide for
3 healthy children. And this issue comes back to this Court with
4 the police confronted with overwhelming mental health issues,
5 which they're not trained for properly, and a police force that
6 is really not willing to do the full training and the respect
7 for that kind of training to try to get through this process
8 before the whole community is totally damaged, and I think we
9 can make a much better effort.

10 I think federal judges have a vital role in all of
11 this. I don't see where, as a citizen, if I can report things
12 that I see are illegal, you can't, and here you are, a federal
13 judge. I mean, you're still a citizen. And if you see
14 corruption, get out there and talk about it. People are not
15 talking about it. They don't even mention it. And this is an
16 exchange that goes all the way down to California now and all
17 the way up to Mexico.

18 THE COURT: You know, I don't mean to interrupt you,
19 except I do.

20 MS. NEWELL: Sure.

21 THE COURT: There's a reason why I don't speak out
22 too much except on matters that are before me. Because if I
23 were to see something that you would say would be corruption
24 and say something publicly in the role of a citizen and if
25 someone were then to file a case in federal court -- and the

1 way we do it here, we have random assignment among just a small
2 number of judges. If I were to be assigned that case, I think
3 the people before the Court in that case would feel that they
4 couldn't get a fair trial because I've already publicly
5 expressed my views on that.

6 So not only do I actually try to keep an open mind on
7 all of the cases that are before me until it comes time to
8 render a decision, but I also try not to do too much public
9 speaking other than from up here or in my written opinions so
10 that everyone who does have a case before me knows that I
11 haven't already previously addressed it.

12 But I appreciate your suggestion, but I'm just
13 explaining why you are not seeing me speak as a public citizen.

14 MS. NEWELL: Yeah. And that's why I'm here today to
15 make sure you get a complete picture because I helped take down
16 Enron, and I told the City and I told the State, and I
17 testified at the Public Utility Commission. "Don't let them in
18 here because they are international crooks," and I had details
19 to that effect from India. And they actually killed people in
20 India, and they killed people in California once they got in
21 and got control of our electric grid by shutting down
22 electricity in California during a heatwave. It killed senior
23 citizens.

24 So if people see this -- and this is why we have so
25 much disbelief in our community that there truly is honesty in

1 the city of Portland, and that has got to change. And this is
2 one court system that the people are directly affected by
3 individuals that have guns and their manner of handling a
4 situation that they have to feel that there's a sense of
5 community there and concern from every level, and we're not
6 getting there, and we have to get there. And we have to find a
7 way to get there. And I will keep -- I'm still right in the
8 process of exposing a lot of this, and I think we can get
9 there, and I still believe that we will.

10 THE COURT: Thank you very much, Ms. Newell. I
11 appreciate your comments and your optimism.

12 All right. Bora Harris -- I'm sorry. Ms. Harris.
13 I'm sorry.

14 MS. HARRIS: That's fine.

15 Good morning -- or good afternoon, and I -- it
16 appears that I'm right before recess, so that means we can be
17 here until 5:00 or so? Okay.

18 My name is Bora Harris. I'm president of D. Harris
19 Leadership, LLC, and I'm also a candidate for Multnomah County
20 Chair.

21 The purpose of my being here today -- it was not a
22 preplanned speech. I -- it's not going to be very long, but
23 the purpose of my being here is the necessity for change.
24 That's what I'm seeking in Multnomah County. So I'm not
25 focusing on that, but that's a necessity on the purpose for my

1 being here today.

2 Real briefly, when I was a child growing up in a
3 small town in America in the South, on a Saturday, my
4 grandmother and I went to the -- this town, this city, to go
5 shopping. The same bus station was there. And when you go
6 into the shopping area, you have to walk through this Greyhound
7 bus station. At one end of the Greyhound bus station was this
8 water fountain that said "Colored"; on the opposite end of the
9 Greyhound bus station was a water fountain that said "White."

10 This is the first time I asked my grandmother, "What
11 is the difference in the waters?"

12 My grandmother said, "Take a sip."

13 For those of you who may be too young to understand,
14 "sip" means to take a drink.

15 "Take a sip of the water."

16 I took a sip of water, and I realized that there was
17 no difference in the waters. The difference was in the mind --
18 the mindset that those who created those fountains and put
19 those labels on the fountains wanted us or people of color to
20 think.

21 THE COURT: What year was this?

22 MS. HARRIS: That will give it away.

23 No, Your Honor, I will tell you it was years ago.

24 But I -- I drank -- I drank that water. From that
25 point -- and it's interesting that the -- the lady who spoke

1 before me referenced to water. But from that point on, I had
2 no problem stepping out onto waters because I know there's no
3 difference, and I do step out on waters, and that's what I'm
4 doing today here and with the County.

5 So that covers that part.

6 I want to share that I am in agreement with the
7 recommendations made by the COAB volunteers and the voting
8 members. And the reason I said my purpose here is for change
9 is that I am in support of and I do understand things that you
10 cannot make recommendations, but you're listening. I
11 appreciate that.

12 I am in support of and ask the judge to appoint a
13 court monitor and remove Attorney Rosenbaum. And similar to
14 the County, for an executive -- the highest executive level of
15 a county government of Multnomah County to publicly call a
16 woman a "B" with the four letters behind it in front of caring
17 community members, elected officials, and other colleagues and
18 constituents on taxpayers' dollars, on taxpayers' dimes and to
19 feel it is okay to continue with business as usual, time -- a
20 change needs to be made.

21 The same in this situation. A change needs to be
22 made removing Attorney Rosenbaum.

23 Now, my reasons why. Because of my values of ethics,
24 honesty, and integrity, and what is fair, what is equal and
25 just and what is right, Attorney Rosenbaum needs to be removed

1 because he was not a chosen one.

2 During the process, there were others who went
3 through the process of applying for the position. He did not,
4 it appears, and based on information that I am privy to, he was
5 not one of the finalists. So explain to me how can someone
6 who's a zero, nowhere on the board, move from the back to the
7 front of the room and become and receive the contract? So when
8 you smell a skunk -- if it smells like a skunk, somewhere it is
9 a skunk. Sorry about that.

10 So there's evidence that there is corruption there.
11 When there is corruption, it needs to be addressed, and
12 corruption needs to be removed. There should be no place.
13 Yes, there is corruption all over the place, but there should
14 not be a place for corruption when good people with good hearts
15 are wanting to do what's right.

16 As I said, it appears the process was corrupt, and it
17 sounds like the process was corrupt.

18 And I won't be before you any more than three more
19 minutes.

20 But how did he move from the zero to the finalists?
21 That is the question. And somebody knows the answer. So we
22 have the courage and the boldness and the -- the person or
23 those parties should do what's right and come to the -- step to
24 the front and say, "This is what happened. We made a bad
25 decision." That's why we lose public trust, and that's why I

1 want to build public trust.

2 When the public has trust in us, when we're
3 transparent and not just using the terminology "I'm
4 transparent," and "Oh, I'm transparent," when we actually make
5 it transparent, then the public will begin to trust us again.

6 Who are those players who allowed this to happen?
7 Who closed their eyes and said, "That's just fatalism"?

8 "Fatalism" is one of my favorite words. It means
9 "That's just the way it is." It does not have to be the way it
10 is. It needs to be the right thing. It needs to be done
11 properly. It needs to be done in order. It needs to be done
12 in fairness. All ways and all things -- ways of doing things
13 that were not right, like those water fountains with the
14 "colored" and with the "white," we can't -- we can't step back
15 into tomorrow and expect to have a bright future for our
16 children and for us and for the citizens and for our elderly
17 and for our seniors. We cannot expect that.

18 I will tell you, in conclusion, this morning I was at
19 the County Board of Commissioners and I reiterated that the
20 shackles need to be taken off Multnomah County.

21 What are shackles?

22 Thank you for asking.

23 THE COURT: You saw it in my eyes.

24 MS. HARRIS: Yes, I did, Your Honor. Judge, I did.

25 Shackles are -- I'm sure you know, so I'm not testing your

1 intelligence, but just to make sure that we're talking about
2 the same shackles, shackles are things that are placed on us
3 that hold us down to keep us from having that freedom of
4 movement. Those shackles in this situation needs to be
5 removed.

6 It appears that Attorney Rosenbaum is a shackle, and
7 he needs to be removed, and we need to have a court monitor.
8 And the findings of what -- the remaining of that contract
9 needs to be placed on hold until we can take that shackle off
10 and put it in place what needs -- and who needs to be in place.

11 What I shared with the County this morning -- and
12 please let me share it today, the shackles that -- the shackles
13 of institutional racism, the shackles of entitlement, such as
14 Deborah Kafoury, the County Chair, who publicly -- I won't
15 repeat that again. I shared it already. I'll move forward to
16 shorten the recess.

17 The shackles of health disparities of the poor, the
18 underserved, and the underrepresented. And now the shackles of
19 Wapato, sold for over 5 million, so I asked them, "Where are we
20 going to find enough beds when the cold winter comes in October
21 and so forth? Do we have a plan?"

22 There's no plan to lay the heads of people who may
23 end up being frozen in 2018. Sad. I know you can't respond to
24 that, but it all goes into play. We're shackling. We're
25 suppressing. We're holding people down because we're not doing

1 the right thing. The right thing has to be done.

2 And, again, and I trust you. In closing, I'm here on
3 behalf of the community and being a voice for the community, a
4 voice for hurting people who have so long seen these type of --
5 having these concerns and these issues and everyone saying,
6 "We're going to take care of it," but nothing happens.

7 So may I leave everyone with this: It's time for
8 change so that we can build the public respect, the respect for
9 government again. As I walk away from the podium, do one thing
10 for me, and, Judge, please say it's okay. I would like for
11 everyone to, before the recess period, to inhale and exhale.

12 THE COURT: Sounds like a good idea.

13 MS. HARRIS: Thank you.

14 THE COURT: Thank you, Ms. Harris. I appreciate
15 that, and I appreciate you being here.

16 All right. We will take a recess for one hour, and
17 then we'll pick up with the status conference, beginning with
18 the United States.

19 Let me also say I don't think -- Chief, I don't think
20 you and I have met -- yes. Sorry, we have not met. I have met
21 Deputy Chief Day, and let me invite you back to chambers so we
22 can meet in person.

23 And, Mary, would you please escort the chief and
24 deputy chief back to chambers?

25 We will not be discussing the case or anything to do

1 with it, but I have not met you before and I would like to meet
2 you. We'll be in recess one hour.

3 (Recess taken.)

4 DEPUTY COURTROOM CLERK: Please be seated.

5 THE COURT: All right. Good afternoon, everyone. I
6 have been informed that there is a request by two folks who,
7 for whatever reason, didn't make the list this morning. So I'm
8 going to give them an opportunity to speak now if they wish.
9 Let me ask if Philip Wolfe is here and also Donna Hayes, if you
10 are here?

11 UNIDENTIFIED SPEAKER: She's in the back there
12 waving.

13 THE COURT: All right. Mr. Wolfe, you're welcome to
14 come up and --

15 Mr. Wolfe, welcome.

16 MR. WOLFE: Good afternoon, Your Honor. Thanks for
17 giving me the opportunity to make some comments. My name is
18 Philip J. Wolfe, for the record.

19 Okay. I just wanted to make a couple of comments,
20 and I know that you can't do anything to change it, but I do
21 want to make the comments so that we address the issue for the
22 public record and encourage the DOJ to do something.

23 Okay. So the Portland Committee on Disabilities is
24 now in its second term. It's been four years now and working
25 with COAB over the past couple of years. Last year I was voted

1 as chair for COAB. And after Kathleen resigned, I was
2 appointed, and I've been working hard, really involved,
3 volunteering my time, doing this work without pay, doing six
4 meetings a month. It's basically full time for two years. And
5 we made a hundred recommendations that we voted on. We voted
6 on those, passed those on to the City. They approved those and
7 then submitted them to the DOJ, where they sat for almost three
8 years now.

9 And they've been sitting there. We are waiting to
10 hear from the Department of Justice in regards to our
11 suggestions, and the City has not been in compliance with the
12 settlement according to the DOJ -- they found that the City is
13 not in compliance with the settlement. And so I'm wondering
14 where the accountability is for the City. There's no
15 consequence. There's no change. Except that the City killed
16 the COAB and took on the -- is taking on the PCCEP group to
17 take over, taking all of the credit from the work that COAB did
18 over the last few years, and their stakeholders are making
19 those suggestions now to the City, and they're respecting those
20 and making changes. But why can't the City share the respect
21 to -- with COAB making those same suggestions that they've made
22 over the past few years?

23 Now, in the last two weeks, John Elifritz was killed
24 by 20 police officers with a dog and one sheriff that
25 escalated. This person was experiencing mental health crisis,

1 and they were saying he was being pursued, but that does not
2 match policy as according to deescalation policies and working
3 with someone who's in a mental crisis. The result was this
4 person lost their life to a shooting. So this is not working.

5 Now the City wants to hire 93 more officers, and I'm
6 very concerned as a citizen. And I guess what I'm trying to
7 say is obviously we have a lot of work to do together to make
8 changes for the better, and I'm asking the DOJ to do something
9 to roll up their sleeves and get to work so that we can make
10 changes, and I just want to encourage them to do that.

11 Your Honor, I hope that you can somehow inspire the
12 DOJ to do something.

13 Thank you very much for your time.

14 THE COURT: Thank you very much for your comments,
15 Mr. Wolfe. And I also thank our ASL interpreters for their
16 assistance. Thank you.

17 UNIDENTIFIED SPEAKER: Thank you.

18 THE COURT: Ms. Hayes. Welcome.

19 MS. HAYES: Thank you. Okay. My name is
20 Donna Hayes, and I'm the grandmother of Quanice Hayes, a young
21 man, 17-year-old man that was killed last year by police. And
22 the shooting, it was -- the shooting was kind of weird because
23 there was several officers out there and only one officer
24 thought to shoot. The only one seeing something that -- that's
25 what's weird about it, and -- and I really don't want -- I know

1 the DOJ is leaving in a year from out of the settlement
2 agreement, and I want them to leave some type of watchdog, you
3 know, because right at the moment what has the City complied
4 with when it came to the DOJ? There's nothing that is
5 completely complied with. And I really don't believe we can
6 afford to have the DOJ walk away in a year. We need, like, the
7 PCCEP. We need somebody that's going to be a watchdog, and
8 because we know right now the City hasn't got it right. And,
9 let's see, because we know right now the killings haven't
10 stopped. Without -- without the DOJ, I believe it's only going
11 to get worse, and they -- they -- it's still happening with the
12 DOJ. So we need to have somebody here to say, "Hey, this is
13 not done. This is not done. You need to have this done" and
14 it be complied with -- made to comply with because right now
15 we -- whether things are in partial compliance, what is partial
16 compliance? Partial compliance, to me, is not in compliance at
17 all.

18 So my thing is we need to have that watchdog. We've
19 got to have that with the DOJ leaving in a year. And I don't
20 really think nothing should be changed. I think what they need
21 to do is to be made to comply. Don't -- don't alter it.
22 That's saying, "Okay, you can't get it done. Well, we're going
23 to help you get it done this way." No. Get it done. Because
24 if we don't, we're going to lose more and more Oregonians.
25 And, personally, I can't afford to lose any more grandkids, so

1 thank you.

2 THE COURT: Thank you. I appreciate your comments.

3 Thank you, Ms. Hayes.

4 By the way, before I turn it to the United States, I
5 do want to formally recognize we have a new Portland police
6 chief, as you all know, in town, and welcome Chief Outlaw.
7 It's been almost seven months. Is that about right?

8 PORTLAND POLICE CHIEF OUTLAW: Yes, sir.

9 THE COURT: Is there anything that you wish you to
10 say? I'm not sure I told you I was going to call on you. If
11 you don't want to, you don't have to. But if there's something
12 you would like to say, you're certainly welcome.

13 PORTLAND POLICE CHIEF OUTLAW: Please.

14 Thank you, Your Honor, for the opportunity to address
15 the Court today. No, I wasn't expecting to come up here, but I
16 never want to pass up an opportunity to not only -- and I've
17 shared with a few people as I've walked in. It's been very
18 enlightening and a huge opportunity, I think, not only for
19 myself but other members here of the Bureau to hear the various
20 perspectives that have been offered thus far today. Not only
21 is it helpful in allowing us to inform policy moving forward,
22 but it drives home not only the passion within the community of
23 why things are the way they are today, but it drives home the
24 importance of the work that we're doing as an organization and
25 why it's important to do things not only openly, transparently,

1 but to do it in a way that establishes trust, establishes and
2 maintains trust.

3 It pains me that there's so much dissonance right now
4 in the community, but I'm hopeful and I'm also optimistic
5 because I know that we have the right people in the right seats
6 now to get it done.

7 So thank you, again, to allow the opportunity -- to
8 be allowed the opportunity to speak, but I also want everyone
9 in this room to know that we are, as an organization, very
10 committed, not only to what's in the settlement agreement,
11 but -- not because it's in the settlement agreement. It's
12 because it's the right thing to do. Thank you.

13 THE COURT: Thank you, Chief. And I think I do speak
14 on behalf of everyone here when I say that I believe everyone
15 in this courtroom and as part of this process wishes you the
16 best of luck, and I also believe that everyone in this
17 courtroom is willing to work with you as appropriate in helping
18 you to achieve these worthwhile goals.

19 So welcome, and thank you.

20 PORTLAND POLICE CHIEF OUTLAW: Yes, sir.

21 THE COURT: Let's go back to the United States,
22 Mr. Geissler.

23 MR. GEISSLER: Your Honor, if it please the Court, in
24 order to bring finality to the fairness hearing portion of
25 today's hearing, I believe Your Honor had posed a question in

1 which you expected responses from each of the four parties. If
2 we understand Your Honor's proposal precisely, option one is
3 approval of the six amendments; option two is disapproval of
4 the six amendments; and option three, as Your Honor framed it,
5 was conditional. Approval and coming back in six months with
6 respect to all six portions of the amendments of the settlement
7 agreement.

8 Your Honor, the United States believes that there is
9 a sufficient factual record established already and retains the
10 position that all six should be approved; however, with respect
11 to the option of a conditional approval -- I hesitate to ask
12 the Court a question, but I'll ask the Court a question. May I
13 take it that the condition is that we come back in six months?

14 THE COURT: Yes. And my thinking would be because of
15 some of the concerns, the concerns that maybe either these
16 conditions won't be fully complied with, they might not be
17 sufficient, there might be things that we can learn. And
18 rather than give final approval now or final disapproval now,
19 my plan or my tentative thinking is to give conditional and
20 provisional approval right now, hear how things are, coming
21 back in six months, with the expectation that based upon what
22 we've learned between now and six months from now, I will
23 either then be in a better position to give full unconditional
24 approval or, perhaps, based upon what is learned, the parties
25 may want to modify some of these conditions even further and

1 then seek final unconditional approval on some modifications,
2 but that's a long-winded answer of "yes" to your question.

3 MR. GEISSLER: Thank you, Your Honor.

4 So with respect to five of the six proposed
5 amendments, the first being the two EIS provisions, adoption of
6 1010.10 stipulated discipline, CRC and COCL reporting. We
7 believe that today finality is important. Finality is
8 important so that the structures can get in place and so that
9 the police bureau, the CRC, IPR can all function as they
10 should, and the City should come toward completion of the
11 settlement agreement without hesitation.

12 With respect to the sixth, the PCCEP, if Your Honor
13 is so inclined not to grant the United States' request to
14 approve all six, for the sixth alone, for PCCEP, we submit that
15 that one would be the one provision for conditional approval,
16 with the only condition being a status conference in six months
17 from today, Your Honor.

18 I believe, Your Honor, in consultation with the other
19 counsel, that they will have similar positions, if not exactly
20 the same.

21 THE COURT: All right. Before we get, then, to a
22 status conference on the status of the settlement, let me ask
23 the City, does the City agree with the position just
24 articulated by the United States?

25 MR. AMBERG: Yes, we do, Your Honor.

1 THE COURT: All right. And does the
2 intervenor-defendant, Portland Police Association, agree with
3 that position?

4 MR. KARIA: Excuse me, sir. Partially. We believe
5 that the Court, as a matter of finality, should enter all six
6 amendments today. And to the degree that the Court and the
7 public are looking for a status update as to, in particular,
8 the implementation of PCCEP, that we certainly would have no
9 objection coming back in six months to update both the Court
10 and the public as to how PCCEP is operating. But we're looking
11 for finality from the Court on the six.

12 THE COURT: But if the Portland Police Association
13 does not get its first choice in that matter, do you have any
14 objection to me giving final approval on the five points that
15 Mr. Geissler identified, but only provisional approval, subject
16 to a further hearing on the PCCEP? If that's the direction
17 that I go in, does the Portland Police Association object?

18 MR. KARIA: We do not object.

19 THE COURT: The position of the AMAC?

20 MS. ALBIES: Yes, your Honor. The AMAC -- this is
21 Ashlee Ablies for the AMAC. The AMAC agrees with the proposal
22 put forth that -- approval of the five areas and the
23 conditional approval of the PCCEP plan. The AMAC does want to
24 make a couple points for the record about the use of force.
25 The changes to the policies, the standard operating procedures

1 on the use of force, those were just recently filed with the
2 Court yesterday by the City. The first time that the AMAC has
3 been able to see that standard operating procedure, those SOPs
4 are not a part of the agreement. They're noted that they --
5 you know, there's the -- the changes to the agreement note that
6 these SOPs will be developed. But because the AMAC has not had
7 a chance to review those in depth, we did want to highlight
8 that in an area of concern that the -- to -- to maintain some
9 attention to for the public and for this Court, but that --
10 recognizing that the SOPs are not included in the agreement, we
11 don't object to that being approved. Because any changes to
12 the SOP, if we want, we have other ways to talk to the City
13 about that and advocate for that.

14 As to the EIS, we have no objection to that. As to
15 the changes to the CRC timeline, the AMAC has been asking for
16 that change since the beginning.

17 With regards to the stipulated discipline in 131(d),
18 again, those changes, the AMAC has no objection; but as -- I
19 believe it was Copwatch had suggested that the stipulated
20 decision -- or the stipulated discipline should be included in
21 the PRB summaries. Currently, that's not part of the
22 agreement. And, again, that is not going to hold up the AMAC
23 from -- we are -- where I'm not objecting to that -- that --
24 those changes being -- being made, but we do want to note that
25 we do believe that any stipulated disciplines should be a part

1 of the public record so we can track whether or not the
2 excerpted areas, such as use of force and discriminatory
3 allegations, are included in that public oversight piece.

4 With regard to the COCL reporting, the quarterly
5 reports, we don't have an issue with that. Although, we do
6 believe it's appropriate for use of force to be included at
7 least half the year in those reports rather than just annually.

8 Again, that's not in the text of any changes that are
9 being made, but it is something that we want to note for the
10 record.

11 And then the PCCEP, you've already heard our concerns
12 about that.

13 THE COURT: All right.

14 MS. ALBIES: Thank you.

15 THE COURT: Thank you very much. I appreciate
16 everyone's comments and input on this. I'll give you a final
17 ruling at the conclusion of today's proceedings. But for right
18 now, let's move on to a status conference on the status of the
19 settlement.

20 The United States.

21 MR. GEISSLER: Thank you, Your Honor. If it please
22 the Court, similar to our presentation of the settlement
23 agreement on amendments, my colleague, Mr. Hager and I have
24 divided the provisions of the settlement -- settlement
25 agreement for the status conference portion as well. I will

1 speak to Sections III, Use of Force; IV, Training; VII, EIS;
2 and, VIII, Accountability.

3 Mr. Hager will speak to Sections V, Community-Based
4 Mental Health; VI, Crisis Intervention; and, IX, Community
5 Engagement.

6 United States' compliance assessment report filed
7 with this Court in December of 2017 gives a full-on explanation
8 of our current compliance ratings. We, however, are pleased
9 today to take the opportunity to speak with the Court on a
10 particular few points of those ratings, as well as give some
11 updates of actions that have taken place since the filing of
12 that report, and to answer any questions that Your Honor may
13 have.

14 Overall, Your Honor, the United States found that the
15 City has made significant progress since the last time we
16 appeared before this Court. Under the leadership of Chief
17 Marshman and then now Chief Outlaw, PPB has turned the corner
18 on policies and training. Challenges were made, of course, but
19 PPB and IPR are developing right now the foundations needed to
20 come into substantial compliance. And the City has been
21 responsive to many of the concerns we have raised in our 2017
22 compliance report.

23 With respect to use of force, Your Honor, in 2017,
24 the year covered by that assessment, PPB completed the
25 extremely lengthy process of revising its force policies. They

1 did so along with the COCL and the United States. We
2 systematically went through every single recommendation that
3 the COAB made in doing a policy assessment. The revisions to
4 the main force policy 1010.00 did not take effect until
5 August of 2017.

6 To implement policies, PPB conducted in-service
7 training for all of its sworn officers in the third and fourth
8 quarter of 2017. As Your Honor would expect, then, there will
9 be a lag time between the time the policies were initially
10 promulgated in August and the training over the last two
11 quarters and then seeing the effect of those policies in
12 officer/civilian interactions on the street.

13 We would like to discuss today three areas of focus
14 with respect to force. The tools, the Tasers in our settlement
15 agreement we call them ECWs or electronic control weapons.
16 Deescalation and the force audit.

17 As noted in our report, we had some concerns that PPB
18 officers were not also complying with the settlement
19 agreement's requirement and restrictions on the use of ECWs and
20 supervisors were not consistently holding officers accountable
21 when that occurred.

22 Specifically, officers and supervisors did not treat
23 discharges of greater than five seconds. It's holding down the
24 trigger, causing the electrical impulse for greater than five
25 seconds, as requiring independent justification for multiple

1 discharges. So what happened in 2017? PPB responded to our
2 prior concerns with ECW training. PPB's master Taser
3 instructor -- I'm sorry Deputy Chief Day is not here to hear
4 some phrases about the training. PPB's master Taser instructor
5 orally quizzed every single officer as they went through the
6 Taser training on the requirements of the policy and the
7 practical use of the tool as they -- as he walked each of the
8 students through a skills demonstration exercise.

9 In both classroom presentation and a practical
10 exercise, PPB integrated the more directive force policies,
11 specifically with respect to ECWs, into the training.

12 The fruits of that labor may bear out over 2018. We
13 will look forward to COCL's second COCL review if Your Honor
14 approves the change in reporting, which would cover force
15 reports. And at the end of 2018, we, likewise, will make a
16 yearlong assessment of the force.

17 PPB also invested in ECW technology, an enhancement
18 that should address the concerns of the extended verse that we
19 noticed in our assessment of paragraph 66. Specifically,
20 PPB -- pardon me -- PPB replaced the batteries of the ECW
21 devices that it uses. The new batteries are programmed to only
22 permit a five-second burst. If I hold down the trigger for six
23 seconds, it will still only do five seconds.

24 Regarding deescalation, Your Honor, COCL's noted some
25 concerns and provided PPB with extensive feedback on

1 deescalation. We also noted in our paragraph 67 assessment
2 that some supervisors mislabeled actions that officers take as
3 deescalation. We observed in the fall of 2017 training a new
4 emphasis on deescalation in several role-playing scenarios.

5 PPB is currently working on a deescalation-specific
6 training module for the upcoming 2018 in-service training for
7 all officers.

8 In the coming year, we'd expect to see appropriate
9 characterization in the reports and appropriate documentation
10 of deescalation and supervisors' after-action reviews.

11 Lastly, with respect to use of force, Your Honor, we
12 reviewed the force after-action reporting audit process that is
13 after the after-action reports are done, they go to the
14 criminologist report audit.

15 As we have discussed with PPB, pursuant to paragraphs
16 73 and 77, we'd expect to see a more systemic methodology for
17 the tracking of corrective action for issues identified in that
18 report. It is a quality improvement loop to find the root
19 cause analysis, identify possible corrections, implement the
20 corrections, see if it worked.

21 PPB needs to build out this capacity in the coming
22 year.

23 For training, Your Honor, PPB values training. We
24 have seen this. Working with DOJ and COCL, the Training
25 Division has readily accepted feedback and revised both the

1 content of the training and implemented -- to include
2 implemented -- implementing new reviewed policies and has
3 revised the method of training to assess individual performance
4 from each officer in training and to solicit feedback from the
5 officers on their impression of the training.

6 PPB implemented an equity training in the spring of
7 2017 for in-service for all officers. In the fall of 2017,
8 they have omitted ethical training of police officers to
9 ethically intervene for one near.

10 PPB is utilizing a training needs assessment to shape
11 the current in-service training, which is at paragraph 79.
12 However, this needs assessment should shape the entire annual
13 training plan, not just the in-service portion.

14 As mentioned in our report on the fourth section, PPB
15 implemented ECW training that includes individualized testing
16 and incorporated policy into instruction and practicum.

17 Similarly, PPB has assessed the efficacy of training
18 through competency but base evaluations and scenarios for other
19 skills like deescalation, crisis intervention, and several
20 perishable suits.

21 Since our report, PPB has added a new component to
22 the ECW training for the use of a model or dummy to practice
23 cuffing under power -- a skill we said they should include.

24 PPB provided practical instruction on life-saving
25 techniques and the duty to render aid pursuant to paragraph 80

1 of our settlement agreement. PPB has saved several lives. Let
2 me repeat this. PPB has saved several lives. Not just
3 officers, but, importantly, civilians. Even from against --
4 some civilians against whom they've used force. With the
5 skills taught in this training, they have implemented the
6 training in the practical exercise on the street. One could
7 characterize PPB as now having adopted in this report, the
8 guardian mindset in that respect.

9 PPB is utilizing advice from the Training Advisory
10 Council, pursuant to paragraph 86. This is then a dynamic
11 interaction. PPB both provides statistics and substantive
12 information to the Training Advisory Council, a group of
13 civilians, and, in turn, TAC has provided the civilian
14 perspective and feedback to the police bureau.

15 There is still work to do. The force and
16 after-action audits about which we have spoken need to inform
17 the training needs assessment, as does a training audit, which
18 PPB must implement pursuant to paragraph 79.

19 PPB is now in the process of putting together a
20 comprehensive supervisory in-service training for 2018 to
21 implement the policies on which we have worked on for the last
22 year.

23 With respect to the Employee Information System,
24 Your Honor, EIS, as we stated in our report, PPB's EIS is
25 improved but has not proven fully capable of effectively

1 identifying at-risk employees, supervisors, and teams to
2 address potentially problematic transit in a timely fashion.
3 It's required under paragraph 116.

4 PPB is in the process of revising its newly
5 implemented standard operating procedure, or SOP, for its EIS
6 procedures for all officers. This is the individual assessment
7 triggers for EIS.

8 PPB has committed to developing a proposed SOP for
9 use-of-force audits for group and command level comparisons
10 should this Court approve that amended settlement agreement.

11 Supervisors are supposed to be using EIS when
12 completing performance reviews of their subordinates. This has
13 not consistently happened.

14 PPB needs to make sure that the EIS data are reliable
15 and that those data in the EIS are used in these performance
16 reviews.

17 For accountability, Your Honor, PPB and IPR are in
18 the midst of formalizing a significant change in the way the
19 City conducts administrative investigations of alleged officer
20 misconduct. In 2017 and the beginning of 2018, PPB and IPR
21 have made significant progress in the tracking and handling of
22 allegations of misconduct.

23 PPB has implemented weekly meetings regarding
24 investigative timelines to ensure that more timely
25 investigations are completed. Some of IPR's cases, however,

1 have unreasonably exceeded required timelines.

2 PPB has issued, under the Accountability section,
3 communication restriction orders, when required, pursuant to
4 paragraph 125. PPB has utilized witness officer walk-throughs
5 for critical incidents pursuant to paragraph 126. And PPB
6 sought contemporaneous voluntary interviews of involved
7 officers in critical incidents, albeit officers declined
8 initially.

9 In response to our prior year's assessment, PPB
10 complemented a fulsome internal investigation of an incident
11 that had given rise to a finding of civil liability; thus
12 meeting paragraph 133. We noted in our report that there
13 should be a consistency in the policies training and
14 investigator skill set between IPR and Internal Affairs. If an
15 individual member of the public files a complaint or an
16 internal complaint is generated, the complaint and the officer
17 are both entitled to a credible finding, whether that finding
18 is investigated by IPR or Internal Affairs.

19 IPR and PPB have begun the process for this
20 complementary policies and training already.

21 We mentioned in the fourth section that some of the
22 after-action reviews that we saw did not always identify
23 out-of-policy uses of force, such as those five-second
24 bursts -- longer than five-second bursts. Supervisors should
25 be able to catch those out-of-policy uses of force on their own

1 and, where appropriate, refer those for administrative
2 investigation.

3 Overall, Your Honor, our very candid monitoring
4 assessment show you there's significant improvement. Even some
5 improvements since our report. Our reports, along with COCL's
6 reports, provide to the City a roadmap of coming into
7 substantial compliance with the entire settlement agreement.

8 Thank you, Your Honor.

9 THE COURT: Mr. Geissler, let me ask you this. You
10 mentioned that there's work right now being done to revise the
11 deescalation training module. Two questions. First, any idea
12 when you expect that to be completed?

13 MR. GEISLER: The City has contracted with an
14 outside organization to come in on May 2nd and 3rd to train a
15 large number of officers under the Train-the-Trainer model.
16 The City will then implement in-service training in mid to late
17 May. The City has provided us lesson plans for the
18 United States for review, along with our expert consultant, and
19 we will provide feedback, as will COCL, to the lesson plans.
20 We intend to observe the implementation of that training toward
21 the front end of the cycle so that if there are any need to
22 change, they can make those changes before proceeding.

23 THE COURT: Approximately when will that be?

24 MR. GEISLER: I believe May 16th is the first day of
25 training, but it will depend upon what -- our availability and

1 perhaps allowing the first iteration to work out any kinks on
2 their own.

3 THE COURT: And second --

4 MR. GEISLER: That training will cover both
5 supervisory in-service and the all officer in-service.

6 THE COURT: And second question, and if you're not
7 the right person I should ask this to, you're welcome to tell
8 me who I should ask it here. Can you tell me a little bit
9 about how the deescalation training that is being developed now
10 is different from past deescalation training?

11 MR. GEISLER: Dr. Rosenbaum is more expert in the
12 particular area; however, I will offer the deescalation
13 training that they have done thus far has been in-house. It's
14 been informed by officers that have traveled elsewhere. PPB
15 engaged in effort of going to see training in different cities,
16 and they have chosen the ICAT model, which Dr. Rosenbaum can
17 speak to, for their current training model.

18 THE COURT: Very good. Thank you.

19 And will now be the right time for me to hear from
20 Dr. Rosenbaum on that issue or will I be hearing from him
21 generally later?

22 MR. GEISLER: I believe you will be hearing from him
23 generally later. I would turn this over to Mr. Hager.

24 THE COURT: Okay.

25 MR. GEISLER: Thank you.

1 THE COURT: Dr. Rosenbaum, I'll look forward to
2 hearing those comments during your presentation.

3 Mr. Hager.

4 MR. HAGER: Thank you, Your Honor. Again, I beg the
5 leave of the Court to remain sitting.

6 THE COURT: You don't need to ask.

7 MR. HAGER: Thank you.

8 Your Honor, may it please the Court, Jared Hager on
9 behalf of the United States. I'm here to address Sections V,
10 VI, and IX of the agreement.

11 Section V concerns community-based mental health
12 services. Paragraphs 88 to 90. We found the City of Portland
13 in substantial compliance with each of these three paragraphs,
14 with the caveat that many of these paragraphs speak to
15 obligations on entities other than the City. However, as we
16 have reported in previous status conferences, the City and PPB
17 have earned credit for initiating discussions as required by
18 these paragraphs with system partners to bridge the gap in
19 community mental health services. They truly have been leaders
20 on this. Although, we all recognize it's not a problem that
21 they alone can solve.

22 In the past year, PPB followed through on initial
23 efforts by remaining involved with community partners to
24 increase the delivery of mental healthcare services and to
25 decrease the number of contacts with law enforcement.

1 At the state level, PPB's service coordination team
2 manager has joined the Behavioral Health Collaborative Team
3 that's advising the Oregon Health Authority on implementing the
4 State's mental health performance plan for adults in serious --
5 with serious and persistent mental illness.

6 We linked to documents outlining the relevant data
7 and effort at paragraph 88 of our compliance assessment report,
8 and that has been posted for people to see themselves.

9 At the local level, the City has been steadfast in
10 supporting the Unity Center for Behavioral Health. PPB uses
11 the Unity as a place to take individuals in mental health
12 crisis, rather than to jail, which is a significant change from
13 when this case began.

14 We understand that the community has concerns with
15 the Unity Center, and they have been well expressed. The Unity
16 Center is not a defendant in this action, and the City does not
17 have control; however, we maintain that it's still a better
18 alternative than taking people suffering from mental health
19 crisis to jail.

20 THE COURT: Let me ask you a question on that, if I
21 may. One of the commenters during the public testimony portion
22 asked about the number of people that go from the Unity Center
23 to jail, and that would be, then, a transportation via the
24 Portland Police Bureau. Are those numbers accessible? Are
25 they available? Where do people find out? Can people find out

1 about that? Is there any information you can share at this
2 time?

3 MR. HAGER: I don't have data, but I will follow up
4 with the Court.

5 THE COURT: Do you know whether or not that data is
6 easily accessible or publicly available?

7 MR. HAGER: I don't know at this time, Your Honor.
8 I'm sorry.

9 THE COURT: We'll follow up on that. Sorry. I
10 apologize for the interruption, but only partially, because --

11 MR. HAGER: Please continue to interrupt.

12 THE COURT: Thank you.

13 MR. HAGER: Finally, through the Behavioral Health
14 Unit Advisory Committee, the City and PPB have cemented
15 relationships with a wide array of system partners, including
16 nonprofit service providers, advocacy organizations,
17 governmental entities, and peer advisors. These efforts
18 clearly benefit the broader community, and we expect the City
19 to remain engaged with these partners to address gaps in
20 community-based mental health services.

21 Section VI of the agreement concerns crisis
22 intervention, paragraph 91 to 115. The United States found the
23 City had substantially complied with 16 of the 24 provisions,
24 as spelled out in our compliance assessment report.

25 The City's earned praise for its efforts related to

1 the PPB's Behavioral Health Unit, which include behavioral
2 health response teams, a service coordination team, over 100
3 ECIT officers, and the advisory committee I just mentioned.

4 The advisory committee, I know, has been the subject
5 of critique for having meetings in private. They're going to
6 be under a new leadership. The chair of -- Janie Gullickson of
7 the Mental Health Association of Oregon. And as she stated in
8 public forums that the City has hosted, she's willing to meet
9 with people privately to discuss what's going on with the
10 business of the committee, as well as to discuss the minutes.
11 People are concerned about policy recommendations that come out
12 of that committee. There are alternative ways to comment on
13 those policies through the Bureau's standard process.

14 THE COURT: Why aren't the meetings more often held
15 open and accessible to the public?

16 MR. HAGER: There's a sensitivity around some of the
17 discussions that happen in those meetings. There are people
18 with lived experience who participate as members of the
19 committee and present at the committee. It was a decision of
20 the committee itself to hold those meetings in private with
21 publicly posting the minutes of the meeting after the fact.

22 I know that members who serve on that committee are
23 open to the public and willing to discuss the issues that are
24 raised in that committee.

25 THE COURT: I wonder whether having a meeting that's

1 partially open to the public and then closed for other matters
2 might be an effective solution or not.

3 MR. HAGER: It might be an effective solution or not.

4 Thank you, Your Honor.

5 THE COURT: Very helpful.

6 MR. HAGER: I like to agree with you when I can.

7 We understand there's still work to be done, and I
8 would like to focus the remainder of my remarks on two areas
9 that we're monitoring with respect to Section VI for
10 substantial compliance. Those are, one, ECIT dispatch
11 criteria; and, two, quality assurance.

12 The two paragraphs are mainly implicated there -- or
13 the three paragraphs that are implicated are 99, 105, and 115.

14 First, the dispatch criteria. This is critical to
15 the success of the City's mental health crisis response model.
16 It tells the Bureau of Emergency Communications, or BOEC, when
17 to dispatch an officer with enhanced crisis intervention
18 training to a 911 call involving a mental health crisis.

19 We heard that some people are worried that police are
20 first responders. They respond to calls for service. And when
21 there is a mental health crisis component to that call, the
22 United States believes that these officers tend to get the best
23 results. They have the extra training, and that's what the
24 program is designed to do.

25 The evidence shows that these ECIT officers typically

1 get positive results both in terms of resolving calls without
2 using force and in connecting people in crisis with medical
3 services rather than taking them to jail. It doesn't mean that
4 non-ECIT officers resort to force more often or utterly fail to
5 connect people with services. Over five months of data in
6 2017, PPB officers had nearly 9,000 encounters with a person
7 experiencing actual or perceived mental illness and just 22 of
8 those 9,000 involved the use of force. None of those 22 cases
9 were found to be unjustified. This is the heart of the
10 settlement agreement.

11 A few points bear mention about these ECIT officers.
12 First, they're a specially trained group. Whereas, all PPB
13 officers receive 40 hours of crisis intervention training, ECIT
14 officers receive an additional 40 hours as well as annual
15 refresher training. We've reviewed these trainings. I've sat
16 in them personally, and they are of high quality.

17 Also, ECIT officers are a volunteer group that, in
18 addition to their normal patrol duties, take on the extra
19 responsibility of addressing certain mental health crisis
20 situations. This is by design, and it's been no barrier to
21 effectiveness.

22 While the agreement imposed a goal of 60 to 80 ECIT
23 officers, the Bureau has nearly twice that, with 118.

24 Returning to the dispatch criteria, the City has
25 contextualized its crisis intervention approach by triaging

1 mental health crisis calls to directly dispatch ECIT officers
2 to those calls that pose a relatively greater risk of harm to
3 the subject or to others. The relevant PPB Directive is
4 850.20, and BOEC dispatch protocols codify the triage approach.
5 We've conditionally approved the policy pending evaluation of
6 the dispatch criteria and practice.

7 As of last year BOEC would dispatch ECIT officers to
8 six types of mental health crisis calls. One, upon the request
9 of a citizen; two, upon the request of a responding officer;
10 three, when the subject is violent; four, when the subject has
11 a weapon; five, when the subject is threatening suicide; and,
12 six, when the call is from a residential mental health
13 facility.

14 I want to take a moment to note that the request
15 provisions of Section I and Section II could, in practice,
16 create an unlimited set of calls for these specialist officers
17 to respond to. And the public should really know if you want
18 an ECIT officer to respond to your 911 mental health crisis
19 call, you just need to ask.

20 THE COURT: So what should the public who calls 911
21 ask for?

22 MR. HAGER: An ECIT officer.

23 THE COURT: They can ask for an ECIT, but is there
24 another way -- I mean, I don't mean to be too casual about
25 this, but what else should they say if they can't think of and

1 can't recall the letters E-C-I-T that would maximize the
2 likelihood that a dispatch will send an ECIT-trained officer?

3 MR. HAGER: Describing the situation and saying,
4 "This person appears to be having a mental health crisis, and I
5 would like someone with specialized training."

6 THE COURT: Thank you.

7 MR. HAGER: The terminology is not necessary. And
8 BOEC dispatchers are trained on that as well.

9 The data we reviewed from 2017 showed us that ECIT
10 officers could be dispatched to more types of crisis calls and
11 more directly by BOEC rather than by an officer's request.

12 Because we expect better outcomes from ECIT officers,
13 the United States saw value in expanding the BOEC dispatch
14 criteria. The City engaged with us and they engaged with the
15 COCL over several months and many meetings this year and last
16 year and, ultimately, the City implemented expanded ECIT
17 dispatch criteria effective as of April 1 that includes a
18 seventh category, a broader category, when, quote, the subject
19 behavior is escalating the risk of harm of self to self or
20 others.

21 Time will tell how that how BOEC dispatchers
22 operationalize that new criterion, and we will evaluate the
23 City's current approach when the data becomes available, and we
24 expect that data to be available on a quarterly basis.

25 The second issue I mentioned was systemic quality

1 assurance. The United States believes that fundamental to the
2 effectiveness of the City's model is a quality assurance
3 program that will collect and analyze data on an ongoing basis
4 and make adjustments as necessary. That effort should cover
5 both dispatch and outcome data generated by both BOEC and the
6 Bureau, PPB.

7 The City has established such a program supported by
8 capable data analysts and input from the BHU advisory
9 committee. This program is designed to outlast the life of the
10 settlement agreement, and we're encouraged by that.

11 Data collection has proven challenging, complicated
12 by the various bureaus involved, by the different methods that
13 have been deployed over time, and by the guidance they've
14 received. However, the City has chartered a path forward with
15 a mental health template for PPB officers and revised training
16 for BOEC dispatchers. And we look forward to evaluating the
17 City's implementation of its quality assurance program over the
18 coming months.

19 The last topic I'll discuss is Section IX. Community
20 Engagement. By the 2016 status conference, it was apparent
21 that the agreement's framework for community engagement was not
22 achieving its intended purpose; in fact, it was arguably having
23 the opposite effect, exacerbating distrust between the City and
24 its citizens.

25 In 2017, the City developed and proposed a new

1 framework. The United States supports the Portland Committee
2 on Community-Engaged Policing and ask Your Honor to allow it to
3 launch by either approving the stipulated amendment or by
4 provisionally stipulating, as we discussed earlier.

5 A new framework is not a lesser framework. The
6 destination remains the same. Only the vehicle has changed.
7 In many respects, we believe PCCEP improves on the original
8 framework, as the parties discussed this morning.

9 Through it all, we will monitor the City's community
10 engagement to ensure effective implementation, whatever its
11 name. While the City engaged in a good faith effort to
12 establish a workable new frame of community engagement and made
13 other outreach efforts that bear mention, to that end, the City
14 and the Bureau took meaningful steps in compliance with
15 paragraphs 146 to 150. The work is not done. But significant
16 among those steps were the city auditor's recently released
17 recommendations regarding bias-free policing.

18 The United States understands that the mayor and the
19 chief have pledged to implement the auditor's recommendation
20 and will track their action.

21 Last year the City also -- or this year the City also
22 launched a monthly public forum to discuss issues related to
23 the settlement agreement. It's proven a meaningful effort of
24 community engagement and pending the Court's approval of the
25 stipulated amendments.

1 Your Honor, in sum, the United States is encouraged
2 by the City's progress. Our encouragement isn't intended to
3 downplay the significant work to be done, particularly in the
4 areas of deescalation, accountability, and community
5 engagement; but we're confident that the City's leadership will
6 continue to collaborate with the parties and the COCL to
7 achieve the goals of the settlement agreement. That concludes
8 my presentation, and I'm happy to answer any other questions
9 the Court has.

10 THE COURT: I do have one area of questioning.

11 Thank you, Mr. Hager.

12 Who funds the Unity Center for Behavioral Health?

13 MR. HAGER: It's funded by a consortium of partners,
14 is my understanding, from private donors as well as various
15 hospitals around the city. Governmental entities have also
16 contributed to the fund.

17 THE COURT: Does the United States have a position?
18 Does the plaintiff in the case have a position on whether it's
19 sufficiently funded?

20 MR. HAGER: We do not have a position at this time.

21 THE COURT: We'll talk more about that.

22 MR. HAGER: Thank you.

23 THE COURT: I would like -- I am curious as to the
24 United States' position on that issue.

25 Okay. Anything further from the United States at

1 this time?

2 All right. Thank you. From the City, Ms. Reeve.

3 MS. REEVE: Thank you, Your Honor. First of all,
4 Your Honor, if I may, I would like to respond to your earlier
5 question about whether the settlement agreement amendments were
6 available and where they were available.

7 They were posted on the -- well, initially posted
8 with the audit -- on the auditor's website with the council
9 agenda. They then remain available long-term under the City's
10 eFile system. They were also posted on the COCL website as
11 well as on the PPB website, and I did check with some of the
12 press here and, as I thought I recalled, Oregon Live had also
13 and *The Oregonian* had written stories and Oregon Live had
14 linked to them.

15 THE COURT: Thank you.

16 MS. REEVE: To start my status conference update, the
17 City wants to thank the United States Department of Justice for
18 their thorough compliance assessment, and I likewise want to
19 thank the COCL team, who you will be hearing from next, for all
20 the work they have done assessing the City's progress and
21 providing technical assistance over the last year.

22 We also appreciated the COCL's presentation at the
23 town hall last night. That was one of the monthly meetings
24 that Mr. Hager mentioned. The first half was the COCL's
25 presentation, and the second half was kind of a community

1 forum.

2 The City is gratified that both the DOJ and COCL
3 teams have continued to support the City's compliance efforts
4 with robust technical assistance. We really would not be able
5 to be where we are and to have made the changes we've made
6 without that.

7 We're also grateful for the recognition that the DOJ
8 has given us of the significant progress that we've made
9 towards full compliance over the past year. And we acknowledge
10 that work remains to be done, particularly with regard to
11 how we engage with our community. That is reflected in much of
12 the public testimony that we have heard, and really no one is
13 disputing that we have work to do in that area.

14 Nonetheless, we have made real strides in this regard
15 since the last status conference. I would just like to start
16 and mention that Mayor Wheeler, in the first -- in the many
17 years I've been with the City, very, very actively involved the
18 public in selecting our new chief of police, not so new
19 anymore, but Chief Danielle Outlaw, who, as we know, is here
20 with us today.

21 Chief Outlaw has made it clear that engaging with and
22 being responsive to and accountable to the community is
23 essential to PPB's mission to protect and serve all
24 Portlanders.

25 Given the very thorough assessments and reporting,

1 we've already heard from the DOJ team, and we're going to hear
2 from the COCL team. I'm not going to go through our compliance
3 efforts paragraph by paragraph, and we do accept the DOJ's
4 compliance report for that purpose.

5 I would like to briefly discuss the City's progress
6 in a few key areas over this past year or so, as well as some
7 of the steps that we are now taking and will be continuing to
8 take in the coming year to achieve full compliance under the
9 settlement agreement.

10 And because of the importance of community engagement
11 in achieving compliance with the spirit as well as the letter
12 of the settlement agreement, I want to start with the last
13 section of the settlement agreement, Section IX, first.

14 Section IX related to community engagement and
15 creation of the community oversight board, what we've all
16 referred to as at COAB. I would be remiss if I did not start
17 my discussion of this topic by thanking the Albina Ministerial
18 Alliance Coalition for Justice and Police Reform for their
19 commitment, their long-term commitment, to ensuring that the
20 goals and objectives of the settlement agreement, and
21 particularly the community engagement objectives, but, frankly,
22 all of the objectives, are not only maintained but enhanced.

23 As we all know and as was discussed extensively last
24 year when we were here before the Court, for a variety of
25 reasons, the original community board faced challenges --

1 THE COURT: I think it was 2016. I don't think we
2 met in 2017.

3 MS. REEVE: Well, as we discussed at the last status
4 conference.

5 THE COURT: Okay.

6 MS. REEVE: The original community board faced
7 challenges to its effectiveness. Many of them have been
8 attributed to the City.

9 The City has taken those to heart, as we have looked
10 for a path forward. Over the past 18 months or so, we have
11 worked with our partners, including the Albina Ministerial
12 Alliance Coalition, to -- and we've worked diligently to craft
13 a plan for a successor body that will achieve the core
14 objectives of the community engagement provisions of the
15 settlement agreement.

16 And I just want to say that we -- we certainly have
17 not agreed with AMAC on everything, and we certainly don't
18 agree with AMAC on everything. But very sincerely, AMAC's
19 committed advocacy has pushed the City to go farther than it
20 originally proposed to go, and it has resulted in an improved
21 plan for the PCCEP that will have all of the authority of the
22 COAB, with greater independent autonomy and resources.

23 Under the amendments we've heard discussed this
24 morning, and I'm just going to touch briefly, and I may skip
25 some of what I prepared because I don't want to be repetitious,

1 but the PCCEP will have the ability to present its own
2 procedures, to select its own chair, to determine the focus of
3 its own work, including oversight of the settlement agreement.
4 And once the settlement agreement is concluded, continuing
5 oversight work for PPB. And should it choose to do so, the
6 ability to choose its own name.

7 And I'm going to highlight just a few key points
8 about the PCCEP and then, perhaps more importantly, identify
9 some of the steps that have already been taken to lay the
10 groundwork.

11 As I mentioned, like the COAB, PCCEP will be tasked
12 with independently assessing the settlement agreement and, as
13 we've already heard, the City has reaffirmed its commitment.
14 The Mayor has reaffirmed his commitment to that.

15 And unlike the COAB, as we've mentioned, the
16 oversight function will endure. And that is one of the
17 principal benefits to the new structure is that because of
18 where we are in the process and because we all recognize at
19 this point the importance of community oversight, the -- the
20 intention is and the board is being set up in such a way that
21 it will endure even when DOJ is no longer here serving to
22 monitor the City's performance, when the COCL is no longer
23 assessing the City's performance, and when the Court is no
24 longer conducting these status conferences to evaluate that.

25 THE COURT: Is there any legal assurance that that

1 will continue? For example, if we have a new mayoral
2 administration with new priorities, then what would stop that
3 new mayor from discontinuing that?

4 MS. REEVE: Your Honor, the PCCEP has been approved
5 and set up by the City Council. So I believe it would take an
6 action of the full City Council to discontinue it.

7 THE COURT: Thanks.

8 MS. REEVE: And beyond that, it is -- it's really not
9 possible for a current City Council to bind future city
10 councils in perpetuity. But I think it would take the whole
11 council and not just the mayor to -- to do away with the PCCEP,
12 if you will.

13 THE COURT: Thank you.

14 MS. REEVE: PCCEP will also have an authority that
15 the COAB did not have to recommend police directives for
16 special off-cycle review, off-schedule review, and will have
17 authority to make policy recommendations on PPB policies on key
18 areas of concerns, specifically including constitutional
19 policing, use of force, interactions with people experiencing
20 mental illness, complaint investigations, and racial justice,
21 and there's been much discussion about the open meeting versus
22 not open meeting. Under the requirements of the plan, PCCEP is
23 required to hold the majority of its meetings as public
24 meetings. It must hold town halls and roundtables at least
25 quarterly, and those must be open to the public. In addition,

1 it is directed to hold at least -- to hold, at a minimum, two
2 monthly meetings, at least one of which must being open to the
3 public.

4 All PCCEP meetings may be open to the public if PCCEP
5 chooses to operate in that fashion. One thing that the City
6 heard robustly from the community, including the members of the
7 COAB, is that this body should be more self-determinative. It
8 should have greater ability and independence to set its own
9 agenda and its own processes, and this is one example of that.

10 PCCEP will appear before this Court at future annual
11 status conferences or any other status conferences that are
12 held to report on its assessment of the City's progress for
13 achieving the goals of the settlement agreement.

14 And PCCEP is already receive training and
15 administrator -- well, not training, but PCCEP is already
16 getting PCCEP set up. It's already -- there's already a staff
17 member assigned to that, as well as members of the Mayor's
18 staff who are working on that.

19 And so I -- I want to talk a little bit about the
20 work that the City is already doing to get the PCCEP set up
21 because we're very well aware of the gap in community
22 engagement and in a formal community engagement process that we
23 have, as has been mentioned many times today.

24 Obviously, the City couldn't seat the PCCEP and begin
25 holding PCCEP meetings until the settlement agreement

1 amendments are legally operative. We, nonetheless, began
2 working to lay the foundation needed to make the PCCEP
3 successful.

4 As I mentioned, we assigned the project manager for
5 the PCCEP who is very actively working now to get that
6 framework in place. We have instituted monthly community
7 forums on policing of public safety and those will continue
8 until the PCCEP is up and running and holding public meetings.
9 The PCCEP Selection Committee, which is comprised of five
10 community members, one selected by each council office, has
11 been seated and has advised on the development of the PCCEP
12 selection criteria, the job description, and the application.

13 The application prospective PCCEP members will
14 actually go live tomorrow, Friday, April 20th, and will be
15 available on the City's website to download and in city hall
16 offices in hard copy. An evaluation committee comprised of
17 community members has selected two organizations to serve as
18 facilitators to support the establishment and development of
19 the PCCEP.

20 The facilitators -- and this was just announced
21 earlier this week -- are training for transformation an Oregon
22 certified minority business enterprise and urging small
23 business that specializes in equity-focused community building
24 between law enforcement and diverse residents they serve and
25 the Brad Taylor Group, an Oregon certified emerging small

1 business, specializing in developing communication strategies
2 with a focus on effective and compassionate communications
3 identified and to overcome differences in order to achieve
4 shared outcomes and goals.

5 Over the next few weeks, assuming that we are able to
6 move forward, there will be volunteer presentations about the
7 opportunity to serve on the PCCEP. An application process will
8 be explained at numerous community organization meetings with a
9 focus on mental health, community, and on cultural
10 organizations.

11 There will also be several informational sessions at
12 geographically diverse locations within the city. The City
13 will be communicating broadly with at least 85 community
14 partners and organizations and many media outlets to request
15 their help in promoting information about this application
16 opportunity.

17 Applications for the PCCEP will be due by June 1,
18 with the goal of seating the PCCEP by August 2018.

19 So I now would like to shift to other areas of the
20 settlement agreement and very briefly highlight some of the
21 work the City has done over the past year as well as some of
22 the work the City will be undertaking in the near future.

23 With regard to the Use-of-Force section, Section III
24 of the settlement agreement, as has been mentioned, the City,
25 DOJ, and COCL have reached agreement on a wholesale revision of

1 PPB's use-of-force policies, including Directive 1010, and
2 council directed the adoption of Directive 1010.10, governing
3 the use-of-force investigations.

4 That's very unusual, but council felt extremely
5 strongly about the importance of prompt administrative
6 investigations, particularly given the feedback it heard from
7 the community, and balanced that against the risk we've also
8 heard, particularly given Oregon law, of potentially
9 interfering with the district attorney's ability to criminally
10 prosecute should that be warranted.

11 As a result of that, the Bureau worked closely and
12 the City worked closely with the District Attorney, the United
13 States Attorney, and the Bureau to draft standard operating
14 procedures that build a robust wall between the criminal
15 investigation and the administrative investigation and has --
16 as has been mentioned, that does -- in order to ensure that
17 accountability process, it does preclude the City from sharing
18 information about an officer-involved shooting as promptly as
19 the City would otherwise do.

20 As we also heard, the City provided additional
21 training regarding Tasers throughout 2017 and changed the
22 battery on the Taser to address the recycling problem.

23 And in response to technical assistance from both
24 Department of Justice and the COCL, and we heard about this,
25 and at the direction of Chief Outlaw, the City looked at a

1 number of forms of deescalation training and selected the
2 Police Executive Research Forum, or PERF, to come to town early
3 next month to provide deescalation training to a large group of
4 PPB officers and supervisors who will then serve as trainers
5 within the Bureau. And all -- the training for all officers
6 will begin in May.

7 All PPB uses of force, including lower-level uses of
8 force, including resist of handcuffing, are now subject to a
9 comprehensive review.

10 With regard to the Training section, the Section
11 IV -- I've already mentioned some training things under Use of
12 Force, but in addition, PPB provided equity training to all of
13 its officers in 2017 and implicit bias training, which will be
14 a significant chunk of in-service training, will be provided to
15 all officers in 2018 beginning next month.

16 The supervisors training for spring 2018 will cover a
17 number of areas of concern that have been identified by the
18 Department of Justice.

19 PPB has implemented a new training records management
20 system that allows the Bureau to better track who has received
21 what training and when that has occurred. And the training
22 division has worked to integrate the new policies adopted, for
23 example the four suite of policies under the settlement
24 agreement, into the training that the Bureau is providing.

25 With regard to Section V, Community-Based Mental

1 Health Services, a new transport protocol was implemented with
2 AMR, the ambulance service, so that people who are transported
3 to the hospital on the mental health hold are now transported
4 by ambulance to avoid having to go to the hospital in the back
5 of a caged police car.

6 The City -- and the City is continuing to work with
7 the Unity Center on the issues that have arisen. It's a new
8 model and a new facility in the city, and there are issues that
9 have -- have arisen as we have heard alluded to today.

10 THE COURT: If I can interrupt there and ask two
11 issues about the Unity Center. Number one, does the City know
12 whether or not there is data accessible that can tell us the
13 number of people that are brought to or transported to the
14 Unity Center, how many of them are then transported to jail?

15 MS. REEVE: I don't know, Your Honor, but I can
16 certainly find that out and get that information to you.

17 THE COURT: Very good.

18 And I'll ask you the same question that I asked the
19 United States. Does the City have a position on whether or not
20 the Unity Center is sufficiently funded to do its mission?

21 MS. REEVE: The City may have a position, Your Honor.
22 As I stand here today, I don't know if the City has a position.

23 I'm also happy to ascertain that and report back.

24 THE COURT: Thank you.

25 MS. REEVE: Okay. We talked some about the City's

1 mental health response model, including crisis intervention.
2 And as has been mentioned, the City conducted a fairly
3 extensively evaluation, and it was the first evaluation of this
4 type of its mental health response system and identified a
5 couple of things. One was that there were -- having done this
6 for the very first time, we identified some better ways to
7 collect and track the data going forward, and that has already
8 been implemented. In particular, PPB and BOEC have now
9 implemented one call type and are going to be cooperating with
10 each other to share the necessary information for BOEC to code
11 calls as ECIT calls, and that will be the way that we will --
12 that both bureaus will track that data. And that will allow
13 for more consistent measurement and evaluation of overall
14 mental health response and specifically utilization of the
15 Enhanced Crisis Intervention Team, what we refer to as ECIT.

16 And as you heard, the COCL and DOJ both provided
17 technical assistance that it appeared that the City has the
18 capacity to expand ECIT dispatch and that it would be
19 beneficial to do so, and we have very recently, as of
20 April 1st, implemented and expanded dispatch protocol and
21 trained the BOEC dispatchers, and we will be checking,
22 obviously, and tracking that data. We will be working with the
23 COCL team to determine the best way to monitor and evaluate the
24 data from that expansion and we will be working with DOJ and
25 COCL to determine if it's been effective to achieve the

1 objections we're trying to achieve or if another expansion
2 should be considered.

3 The City will also make any needed updates to
4 Directive 850.20, if necessary, of it's -- to conform to this
5 dispatch expansion at the time of the universal review, and we
6 have also implemented new protocols for data sharing with the
7 Multnomah County Crisis Line and other system partners.

8 With regard to the Section VII, which is the Employee
9 Information System, we're continuing to work to institute
10 better internal accountability systems to increase compliance
11 with the settlement agreement requirements in this arena.

12 We've created a methodology, as you've heard
13 explained by the DOJ, because of the way our officers often
14 work with multiple supervisors on kind of a rolling basis. The
15 EIS system wasn't providing the best tool for analyzing
16 supervisor and team level data for risk management, and so
17 we've created another methodology to do that. We'll be
18 evaluating how that works.

19 And supervisor training in spring of 2018 will
20 specifically include a class for our supervisors on use of EIS.

21 And, finally, the PPB auditors and PPB has really --
22 one of the ways the settlement agreement, I think, has very
23 much improved the Bureau is that we have a great group of
24 dedicated auditors now at the Bureau who are able to analyze
25 data and really do that feedback so that it becomes a learning

1 organization and can continue to improve its own performance,
2 and their work is really quite impressive.

3 They're evaluating longitudinal data now to determine
4 the appropriate thresholds for alerts. What we realized is
5 that if you were alerting too often -- I don't know if you've
6 ever been in the hospital. I had to be in the hospital last
7 year, and my IV was, like, going off every 30 seconds. And
8 they just ignore it because all of the IV, you know, alarms
9 going off. Your little hose gets kinked. And it was sort of
10 like that with the EIS system. It was alerting so often that
11 it starts to be background noise. So we're looking to set the
12 appropriate threshold for those alerts so that they're
13 meaningful and that they actually inform supervisor decisions
14 and officer performance.

15 And, finally, with regard to Section VIII, Officer
16 Accountability, with the settlement agreement, if and when the
17 settlement agreement amendments become effective, CRC will be
18 exempted from the 180-day time limit for investigations, which
19 is something that has long been advocated for.

20 The suite of accountability directives that PPB uses,
21 that's another suite that was reviewed and approved. And as
22 has been alluded to, we have hired outside trainers to work
23 jointly with IPR investigators and PPA -- I mean, excuse me --
24 IA investigators to -- to make sure that they are following the
25 same standards and the same processes and that those two tracks

1 mirrored each other.

2 And, in addition, the investigating body, whether
3 that's IPR, Independent Police Review, or Internal Affairs,
4 whoever conducts that investigation now does not only the
5 fact-finding but they make initial recommended finding and then
6 sends those to the Responsibility Unit manager. Previously
7 just factual findings went, but there was no recommended
8 finding in policy or out of policy.

9 We've talked about that the timing of this
10 investigations are being monitored, a huge change in the
11 accountability system and something that the City has sought
12 for quite some time is the implementation of directed 1010.10
13 and the prompt interview of officers after an officer-involved
14 shooting.

15 The City and PPA are working closely to get the final
16 details in place on the system for stipulated discipline for
17 officers. And it's good to hear of the desire to have that
18 tracked in the data. That certainly seems reasonable. And the
19 chief has implanted new risk management meetings to ensure
20 greater accountability within the organization.

21 So, in closing, it's a lot of information, and the
22 City really appreciates the opportunity to come before the
23 Court to provide an update on the status of its compliance
24 efforts. The City remains committed to full compliance with
25 the terms of the settlement agreement. We do believe there's

1 been very significant progress over the past year, and, in
2 fact, over the past 12 to 18 months there's been a real gain in
3 momentum.

4 We want to thank all of our partners in these
5 efforts, including the Civil Rights Division, the U.S.
6 Attorney's Office for the District of Oregon, the COCL team,
7 AMAC, and the other community members and advocates for working
8 with the City to make the City and PPB better.

9 Thank you.

10 THE COURT: Thank you, Ms. Reeve. It's very
11 informative.

12 Let's turn now to the Portland Police Association for
13 any comments that they -- they may wish to give on the status
14 of the settlement agreement.

15 Mr. Karia.

16 MR. KARIA: Thank you, sir. I will be very brief.

17 Actually, nothing to add beyond very substantive
18 comments that the United States and the City have provided to
19 this Court. I do want to pause, though, and take a moment to
20 commend the nearly 1,000 Portland police officers who are also
21 PPA members who have worked diligently and in good faith to
22 enact the changes set forth in the settlement agreement.

23 Thank you.

24 THE COURT: Thank you, Mr. Karia.

25 Ms. Albies, what is your preference? Would you

1 prefer to give me the AMAC's position now or after a ten-minute
2 recess?

3 MS. ALBIES: Let's take about a ten-minute recess. I
4 think we'll have about 20 minutes of --

5 THE COURT: Okay. That will be fine.

6 In a moment or two we'll take a ten-minute recess,
7 and then we'll come back with a status report from the Albina
8 Ministerial Alliance Coalition for Justice and Police Reform,
9 followed by a presentation from the COCL.

10 Let me also ask counsel two things to think about
11 during this recess. If I go in the direction urged by
12 Mr. Geissler earlier of giving final approval to a number of
13 the items in the proposed amendments but reserving final
14 decision on the PCCEP portions and only giving that provisional
15 or conditional approval, I was thinking I would like to have a
16 hearing on that issue the week of October 1st through the 5th.
17 Either Monday or Tuesday, the 1st or the 2nd, or that Thursday
18 or Friday, the 4th or the 5th. I'm wide open, I believe. If
19 it is going to be Wednesday, I'm only open in the afternoon.
20 Not in the morning.

21 I would envision taking -- hearing from the parties
22 in terms of how the PCCEP provisions are going, as well as
23 anything else you wish to report, and also hearing from the
24 public in terms of whether they have any views on how the PCCEP
25 process is going, as well as anything else that anyone wishes

1 to say.

2 So would you all check your calendars and let me know
3 whether sometime that week of October 1st through the 5th might
4 work for counsel.

5 Secondly for you to think about, I know that there's
6 a request -- it's not part of a written motion, but I know it's
7 an oral request for some type of standing order of reference to
8 the Ninth Circuit mediator. I'm not that comfortable with that
9 because the Ninth Circuit mediator is for when matters are
10 before the Ninth Circuit.

11 District -- District of Oregon has its own mediation
12 program. To the extent that you don't need a specific order
13 from the District Court to get back before a Ninth Circuit
14 mediator, well, fine. Okay. Then why should I give it?

15 To the extent that there is some reference order that
16 I should give when a case is not currently on appeal, I'm not
17 aware of that. I also don't see any problem generally with
18 parties getting together if they have a dispute and either
19 working it out among themselves and/or going to find a mediator
20 that they can all agree upon, but I do have some concerns about
21 the way the Ninth Circuit mediator was used in 2017 as
22 discussed in the AMAC's letter of October 20, 2017, and how it
23 effectively precluded comment and participation by the public,
24 as described in the AMAC's letter, Ms. Chambers' letter, of
25 October 20th.

1 I don't want to contribute to that, so I guess my
2 question is, "Do you really need a standing order from me, a
3 standing order of reference from me? Number one, I don't think
4 so; number two, I'm not quite sure I'm authorized to do that;
5 and, number three, I'm a little bit concerned about maybe some
6 of the unintended consequences of doing that.

7 But to the extent you want to be heard later on that
8 today, I appreciate your views.

9 All right. A ten-minute recess.

10 (Recess taken.)

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1 (Afternoon session; open court; proceedings resumed:)

2 THE COURT: Good afternoon. Ms. Alibies, the floor
3 is yours, or it will be as soon as everyone sits down.

4 MS. ALBIES: Your Honor, I wanted to make a brief
5 correction for the record. Earlier I stated that we had just
6 received the City's SOPs that were submitted as part of a
7 declaration, I think yesterday. The first time I read them was
8 yesterday. I do believe the City sent them to us a day or two
9 before that, just to be clear.

10 So as part of the AMAC's presentation for the status
11 conference, as we've heard through much of this morning, the
12 AMAC has concerns with implementation of the settlement
13 agreement since the last status conference, particularly with
14 respect to community engagement and with use of force.

15 While the compliance team has deemed the City in
16 substantial compliance with many areas of the agreement, the
17 AMAC's focus has been on community engagement. Because there
18 has been little to no community engagement in the oversight and
19 reform process since the City dismissed the COAB last January,
20 we've outlined, and Dr. Bethel and Dr. Haines will speak in
21 more detail about some of the work the AMAC has been engaged in
22 on that matter.

23 The AMAC is also concerned about the City's use of
24 the word "community policing," with no real plan in place, as
25 we know, to define what that looks like. We are encouraged to

1 hear that the Bureau has gone through equity training and
2 implicit bias training, because, as we know, for years the data
3 that the Bureau has been collecting shows that there are
4 disparities in stops and searches, particularly of
5 African-American members of our community.

6 The hope is that this type of training will reduce
7 those types of disparities. The impact is not just with stops
8 and searches, but it continues throughout the criminal legal
9 system to disparities, not only in policing, but in
10 incarceration rates as well. That starts somewhere, and we are
11 encouraged that there are steps taken to name those and
12 actively address those issues.

13 Last year, the AMAC acted when the City tried to
14 implement this use-of-force policy that we thought would
15 greatly reduce officer accountability, and the AMAC has
16 profound concerns about the effectiveness of some of the
17 training and settlement agreement provisions regarding use of
18 force when it comes to use-of-force issues and harming and
19 killing of community members that we continue to see in our
20 community.

21 To further elaborate on the work that the AMAC has
22 been conducting since our last status conference, I will turn
23 it over to Dr. Bethel and then to Dr. Haines.

24 THE COURT: Thank you.

25 Dr. Bethel.

1 DR. BETHEL: Your Honor, in the absence of the COAB,
2 the AMAC has worked hard to get another board in place and has
3 held a number of community forums to keep the community
4 informed with developments of the settlement agreement.

5 Briefly, the AMAC met or engaged with the City, the
6 PPA, and the DOJ regarding community oversight over 20 times
7 since November of 2016. The AMAC has also held several rallies
8 in support of police accountability, proposed the delay of
9 implementation of the settlement agreement, and engaged in the
10 Ninth Circuit's mediation process, though invited in at the
11 late stages, resulting in intangible improvements to the
12 proposals being considered today.

13 The specifics of the AMAC's advocacy is set forth in
14 our July 2017 status update to this Court in Docket 153, which
15 would be 2016. The AMAC also has held two community forums to
16 provide information to the community and to solicit input from
17 community members about the settlement agreement in the absence
18 of any oversight body after the City dissolved the COAB.

19 In February of this year, the City began hosting such
20 forums as well. Without input or collaboration with AMAC, AMAC
21 is disappointed that the diligent work that it performed to try
22 to craft the new COAB was made confidential by the City and did
23 not incorporate input from the community until the proposal was
24 submitted to City Council.

25 In the last year we've heard the Bureau talk about

1 community policing as a solution to relations between the
2 Bureau and community members. AMAC is concerned that the
3 Bureau has not defined what "community policing" means nor
4 articulated a transparent plan for how it will be implemented.
5 Community policing, when done properly, provides an opportunity
6 to make our community safer. However, historically it has been
7 used as a mechanism to provide increased surveillance in the
8 neighborhoods, where people of color and poor people live.

9 We know, based on the Portland Police Bureau's most
10 recent traffic stop data, it shows the alarming
11 disproportionate rate of stops, searches, and seizures of
12 African-Americans in this city continues despite
13 African-Americans being less likely to have illegal contraband
14 when searched than their white counterparts. We know that
15 about 64 percent of the gang enforcement team's stops are
16 African-Americans.

17 As we deal with the most recent city auditor office's
18 report, community trust in police is extremely low, especially
19 among the African-American community. That trust will continue
20 to erode, so long as the City acts in ways that breach that
21 trust, such as claiming the Bureau eliminated its controversial
22 list of suspected gang members while in fact keeping a second
23 secret list. As AMAC has said many times before, we strongly
24 believe that if the Bureau wants to build trust in Portland's
25 communities, it must be transparent and take accountability for

1 its actions.

2 For these reasons, we have continually called for an
3 independent prosecutor and investigator for the Portland Police
4 Bureau's deadly force incidents and for strengthening the IRP
5 and the CRC. Due to the multiple breaches of trust, the City
6 and the Portland Police Bureau must earn the community's trust,
7 not by talk, but by action.

8 I want to also reiterate that we are still committed
9 that for every citizen of Portland, that they be safe,
10 including officers; that they go home safe; and that all
11 citizens can live in safety.

12 At this time I will turn it over to Dr. LeRoy Haines.

13 THE COURT: Thank you, Dr. Bethel.

14 Hello, again, Dr. Haines.

15 DR. HAINES: Thank you again.

16 Judge Michael, in continuation, AMAC is -- the City's
17 initial position on officers' investigation, the City
18 negotiated a new police union contract out of the cycle to
19 eliminate the 48-hour rule in exchange for millions of dollars
20 to the Bureau and then later, with encouragement of the
21 District Attorney, proposed a deadly force directive, which
22 will allow officers to remain silent until after any criminal
23 investigation into their conduct was completed much longer than
24 the 48 hours.

25 Fortunately, AMAC called attention to this issue and

1 was able to activate the community and provide legal analysts
2 to demand that investigation of officers are conducted promptly
3 after an officer-involved incident.

4 The recent shooting of John Elifritz by seven
5 Portland police officers and a Multnomah County sheriff deputy
6 cause AMAC great concern about the Bureau's response to a
7 mental health crisis.

8 Mr. Elifritz's encounter earlier the day of the
9 shooting showed that the officers should have known that he was
10 having a mental health crisis. The venue of the shooting
11 should have made known the escalation technique used by the
12 Bureau. This makes AMAC believe that the training and policy
13 brought into the settlement agreement are not as effective as
14 they should be.

15 I want to mention, Judge Michael, that there is a
16 disconnect between the training and the policy and the actual
17 implementation on the street, and I believe that this is
18 because of a lack of accountability beginning on that sergeant
19 level. If the patrol officer is not held accountable by the
20 sergeant for violation of policy and training, it is just
21 nonsense to have their training and policy and not have it
22 implemented.

23 So this is a big issue that AMAC believes in. As the
24 witnesses from the community have come up, yes, you can have
25 the best training in the world and the best policy, but if it

1 is not implemented on a practical level, then there is some
2 major issues there.

3 After the death of James Chasse in 2006, reinforced
4 by the settlement agreement, every officer is supposed to be
5 trained in deescalation and resolving incidents involving
6 mental health crisis. We are reminded how quickly officers
7 with enhanced crisis intervention training resorted to force in
8 an encounter with a teenager by the name of Thai Garule in
9 2014, where at the very status conference to address the
10 patterns and practices of excessive force, the DOJ found in the
11 extensive review of the Portland police practices and history.

12 If a supervisor in the case of John Elifritz did
13 create a plan and relied more on force than on deescalation, it
14 demonstrates no accountability to the concept of deescalation.
15 The deescalation practice is not reflected by the eight
16 officers firing their guns at the same time.

17 AMAC is also concerned about the City delaying
18 releasing the officers' names almost two days beyond the 24
19 hours mandated by the directive passed by the City Council last
20 year.

21 The officers' accentuated claims of threats against
22 the officers' names undermine the notion of transparency.
23 There is always an issue of double standard -- a double
24 standard of putting the victim's name out and his whole profile
25 of what he has done since he came out of his mother's womb and

1 the officers and their names. This is a double standard, and
2 we have been bringing this issue up ever since Kendra James's
3 case.

4 Continuing on, AMAC, after being concerned with this
5 issue of the release of officers' names, AMAC recognized that
6 one of the officers also fired multiple times at Keaton Otis
7 who was killed roughly eight years ago at a traffic stop by
8 Officer Andrew Polas and two other officers.

9 AMAC has been asking for years that officers be held
10 accountable for the killings of the community members,
11 including by suggestion an independent prosecutor be
12 established when officer-involved shootings take place.

13 It was made clear late last year on the 48-hour rule
14 that the Multnomah District Attorney and the citizens of
15 Portland have significant differences on how to conduct an
16 independent investigation.

17 Also, in addition, Judge Michael, the group OIR, in
18 recognition that grand jury proceedings are inextricably linked
19 to the Bureau's investigation and review raises concerns about
20 the highly prejudicial evidence the District Attorney presents
21 to the grand jury in an officer-involved shooting case. It
22 appears that the evidence sometimes is designed to poison the
23 jury against making true accountability, if possible, and
24 oversight to take place.

25 Finally, in conclusion, AMAC is deeply concerned

1 about the effectiveness of the implementation, even with the
2 amendments to this settlement agreement. We have been
3 committed, Judge Michael, for over twelve years, working every
4 week, putting in volunteer labor to change and to create a
5 moral Portland Police Bureau that would be recognized by all of
6 the citizens and that would apply not a double standard, but
7 one standard to the citizens of Portland. Thank you very much.

8 THE COURT: Thank you very much, Dr. Haines.

9 Ms. Albies, is there anything further from the AMAC?

10 MS. ALBIES: Nothing further, Your Honor. Thank you.

11 THE COURT: At this time I would like to hear from
12 the CRCO, Dr. Rosenbaum, and whoever else you wish to join you.

13 Welcome, Dr. Rosenbaum.

14 DR. ROSENBAUM: Thank you, Your Honor. May it please
15 the Court, I am Dennis Rosenbaum, Compliance Officer and
16 Community Liaison. I hopefully will not interrupt too much
17 with this sore throat that I have.

18 Given that we were the focus of attention this
19 morning, I just want to clarify a couple of facts. The COCL
20 team, which includes both women and people of color, lives
21 largely outside the state of Oregon in four different states.
22 We are totally independent of the City, and I feel that we have
23 been -- and of DOJ -- and I feel we have been able to do our
24 work in an unbiased manner because of that.

25 Just to clarify a couple of other facts, we are not

1 the monitor. The Department of Justice is the monitor in this
2 case. I'm also not an attorney. My Ph.D. is in psychology. I
3 am a psychologist, who has devoted most of my life to
4 researching and advocacy for the role of community in public
5 safety. I have written books about that, and the role of
6 community policing -- and also racism and policing and
7 profiling. I have written quite a bit about that.

8 So I accepted this role to help Portland, nothing
9 else. Having been a tenured professor for 30 years at a major
10 university, I didn't need to do this, but I was just trying to
11 be helpful.

12 The COCL team also does not base its assessment -- I
13 think as I said before -- on single incidents, as tragic as
14 they are. We try to take a scientific approach where we look
15 at organizational behavior and individual behavior over time
16 and look for patterns in that.

17 I do also want to say that we have had -- this has
18 not been an easy road. We have had many, many battles over the
19 last three and a half years with the City, with the PPB, even
20 some with DOJ, because reform is not an easy process. There
21 are a lot of bumps in the road.

22 But I'm here to say that I am pleased to report that
23 the City, Your Honor, and the Police Bureau has made
24 significant process towards compliance with the terms of the
25 settlement agreement since we last presented before you in

1 October of 2016.

2 I also want to say that I think the pace of change
3 has increased pretty rapidly under the new administration under
4 the new chief of police. And so that, to me, is a good sign.

5 I am going to give a brief overview of some of the
6 areas. Some of them you have heard already. I apologize.
7 I will be brief. Then Dr. Christoff on our team will present
8 the mental health component of the settlement agreement and
9 describe our recent report that we put out on April 2nd.

10 First of all, use of force, Section III. The City
11 and the Bureau have made considerable progress, in our opinion.
12 The Bureau has made all these changes to policy related to
13 force and force reporting and force avoidance. As we note in
14 our report, the Bureau has worked closely with DOJ and with us
15 and even input from community members to revise those
16 directives over many months. Some of those directives with the
17 COAB, I don't know to the extent to which they were
18 incorporated, but I know that some of those recommendations
19 were definitely listened to.

20 However, translating policy into practice, including
21 training the policy and monitoring officers' performance in the
22 field still requires steps from the Police Bureau in some
23 areas. There is work yet to be done.

24 Compliance with the force requirements of the
25 settlement agreement includes monitoring use-of-force

1 incidents. The Bureau has developed this two-phase force audit
2 program. We worked with them extensively on that. Phase 1,
3 conducted by the Bureau analysts, is to determine whether force
4 reports are complete, accurate -- as completed by officers --
5 and reviewed by supervisors in the chain of command. These
6 audits, we would argue, have been successful at identifying
7 deficiencies in these reports at the organizational and
8 precinct level, and the Bureau has taken some corrective action
9 on that.

10 The Phase 2 audit seeks to establish a review of
11 force incidents to determine if the officers' actions were
12 within policy, constitutional, and represented good policing in
13 general.

14 Our initial review of this Phase 2 audit process
15 indicates that it does seem capable of producing some useful
16 results, but it is too early to know for sure.

17 Our evaluation is necessary to come --
18 post-evaluation, we need to do over the next few months to see
19 if it is a valid process or not. The Bureau has also
20 demonstrated the ability to utilize force data and force audits
21 results to identify officers and increasing trend and provide
22 feedback to unit commanders, supervisors, and the training
23 division. However, as we note in our report, a formal feedback
24 system has yet to be fully implemented.

25 Turning to training for a moment, Your Honor, we

1 can't emphasize enough that good training is critical for
2 achieving and sustaining police reform. I think that has been
3 discussed a bit here today. In the settlement agreement,
4 "effective training" is defined as identifying areas where
5 officers meet the training through needs assessment, developing
6 high-quality training, introducing a valid -- delivering that
7 high-quality training and introducing a valid system to
8 evaluate it and to audit that training and keep good records of
9 it.

10 The Bureau has made good strides toward developing a
11 system of training evaluation. We worked really hard with them
12 on multiple methods of doing that. I think the content and
13 delivery of training itself is arguably the most important
14 component, and that has received mixed reviews from us,
15 especially the Bureau's in-service training.

16 In 2017, the primary thrust of the 20-hour training
17 was to train officers on specific changes to the language of
18 the force directive 1010. For that purpose, it was well
19 executed, in our opinion. However, we have repeatedly called
20 upon the training division over the last couple of years to
21 give greater attention to building verbal communication and
22 deescalation skills, as you asked about, Your Honor, that are
23 essential for preventing or minimizing use of force.

24 To date, however, the time and quality of instruction
25 devoted to these important behaviors has been insufficient, in

1 our opinion. These evidence-based skills -- and I say
2 "evidence-based" because it is based on lots of research for
3 officers -- these skills include things such as remaining calm,
4 taking your time to listen to what the subject is saying, being
5 polite and respectful, showing concern or empathy for the
6 subject's situation and what they are facing. These are
7 critical skills for any law enforcement officer.

8 THE COURT: How does that relate to the older
9 thinking that an officer must demonstrate control of the
10 situation, and that oftentimes means with a firm tone? How
11 does one balance the need to maintain control with those
12 techniques, but also to sometimes deescalate as you've
13 described? How do you balance that?

14 DR. ROSENBAUM: Well, as I was about to say here,
15 there is a strong historical culture to support what you are
16 saying. They are trained to do that. I think that is
17 problematic in a lot of ways. However, there are still ways in
18 which they need to approach the situation, assess it, determine
19 what the risks are, where you position yourself, who are the
20 other people that might get involved, who has weapons.

21 There are so many things that an officer has to do.
22 So getting control in that sense is still important. But once
23 you've convinced yourself that no one is at risk of dying in
24 that moment, we need to, in my view, based on looking at this
25 stuff for 30 years, we need to do less commanding language.

1 Rather than directing them, "I want you to do this; I want you
2 to do that," listen to what people are saying, asking in a
3 polite way, being respectful.

4 Because you have the authority to do it doesn't mean
5 that it is proper to do it. Social etiquette still applies to
6 the police. So there is this whole body of work on what he
7 would call procedural justice that can be linked in.

8 THE COURT: By the way, if I'm taking you too far
9 afield, let me know. But I've seen in other cases, where when
10 we are dealing with citizens and people who are on the autism
11 spectrum, that type of command language has the
12 counter-productive effect, at least in the cases that have come
13 before me that have oftentimes resulted in sometimes tragic
14 results, is this additional training incorporated in greater
15 understanding of people in the autism spectrum?

16 DR. ROSENBAUM: Well, yeah, it should be. There have
17 been some folks over at the training academy whose children
18 have autism. So I commend the police for allowing them to come
19 in and talk about that, just recently. And I think it applies
20 to a lot of situations.

21 My argument is that the ECIT training has been quite
22 excellent that the Bureau does, but that mentality doesn't just
23 apply to people having a mental health crisis. When a person
24 is stopped by a police officer, it is a very stressful thing.
25 There is a lot of stress. People are drunk, they are high,

1 they are whatever. They are in altered states. They are not
2 thinking clearly, and they don't respond to commands all that
3 well.

4 Also, just the average person, as we try to
5 communicate, all human beings want to be treated with respect
6 and dignity. No one wants to be demeaned or talked down to in
7 front of their friends or community group, no matter what their
8 state of mind is.

9 We've learned from all the research that when the
10 officers are listening to people rather than talking, and
11 they're polite, they get much more respect. They get higher
12 ratings. They are much more likely to cooperate and less
13 likely to engage in resistance, which leads to force.

14 So that's the kind of stuff we're trying to
15 communicate.

16 If you don't mind, I'll just continue.

17 THE COURT: As long as I interrupted your train of
18 thought, I'm going to continue to do that. We talked a few
19 years ago about body cameras and the pros and cons. We heard a
20 little bit this morning about the pros and cons.

21 Do you have any views on to what extent police-worn
22 body cameras play a role, positive or negative, in any of these
23 particular areas? Then I'll stop interrupting you.

24 DR. ROSENBAUM: Well, I know that Jo Ann Hardesty
25 this morning -- with all due respect to her, and I do agree

1 with her on some things. I do disagree on this. I think the
2 evidence -- I am a social scientist, so I rely on
3 evidence-based policing. There is a growing body of studies
4 that do show that body cameras do cause both parties to be more
5 civilized.

6 It also is -- so it will keep people from escalating
7 into behavior, given that they are being recorded. Now, yes,
8 you can go to YouTube and find all these unbelievable examples
9 where it didn't, but those are extremely rare. I'm talking
10 about studies that study all the officers at the Police Bureau
11 and how they respond.

12 Generally I think it is a good thing. There are a
13 lot of issues with it. We don't have time today to go into it
14 with regard to managing that data and who gets access to it and
15 when and all of that, but also one of the things I've argued is
16 that it has enormous training implications, which is what we
17 are talking about right now. It should be used in a positive
18 way by supervisors to review tapes of officers, bring them in
19 and say, "Hey, you did a great job on that traffic stop
20 yesterday," or "Do you think you could not have thrown the
21 driver's license at her?" So there are various ways that you
22 can use it, which it hasn't been done yet.

23 THE COURT: I know the settlement agreement is silent
24 on the issue of body cameras, but I also know from what we were
25 talking about a few years ago that we were going in that

1 direction.

2 Has that changed in Portland?

3 DR. ROSENBAUM: To be honest, I haven't stayed up on
4 the body camera issue in Portland. I got the feeling that it
5 was sidelined there for a while. I haven't heard much about
6 it, nor have I asked about it lately.

7 THE COURT: All right. I'll stop interrupting your
8 train of thought for a little while.

9 DR. ROSENBAUM: Fine. So we have argued that they
10 need to rethink deescalation and procedural justice, to be more
11 consistent with best practices. For example, we read a lot of
12 force reports where deescalation has been characterized by
13 these commands -- loud commands and warnings of impending
14 force. "If you don't do this, I'm going to tase you."

15 The broader field thinks of deescalation techniques
16 as a way of gaining voluntary compliance rather than coerced
17 compliance, and it is not based on fear or coercion. So in the
18 past week we have learned that the Bureau is in the process of
19 securing outside experts who can train the instructors in
20 deescalation. I know that Tracy, the attorney for the City,
21 mentioned that, and I commend the Bureau and the new chief for
22 pushing that forward. We will wait to see whether it is done
23 well. I do respect the people. I think it should be good.
24 They are going to spend two days just training the trainers.
25 So I think that's a good way to have it spread throughout the

1 Bureau pretty fast.

2 Also, they are conducting in-service training that we
3 have been suggesting. This spring, I -- we maintain it should
4 provide greater coverage of supervisor responsibilities in
5 force events, crowd control, vehicle pursuits, and other risky
6 police operations. As we have noted in the past, supervisors
7 would benefit from enhanced training on these topics, as they
8 often set the tone for acceptable conduct in the organization,
9 and they control the outcome of specific events at the scene of
10 those events.

11 Finally, the Bureau is required to conduct a training
12 audit to ensure that the training requirements of the
13 settlement agreement are addressed in a reasonable manner.
14 That audit -- the first one was completed in December of 2017.
15 It was a comprehensive audit, and it provided some constructive
16 feedback to the training division. However, we felt that some
17 of the conclusions were not based strongly on supported
18 evidence and some directly challenged some of our prior
19 recommendations about pursuing evidence-based training. But
20 generally, I think the next one hopefully will be a little more
21 focused on the training.

22 EIS, as you talked about, the Employee Information
23 System, Section VII, the Bureau has agreed to enhance that.
24 Again, that's about trying to identify at-risk employees,
25 supervisors, and teams. In the past reports, as you may

1 remember, we've said that progress in the first two years was
2 virtually nothing in this area. In 2017, however, the Bureau
3 began to strengthen its EIS program by assigning new
4 administrators and demonstrating a new commitment to data
5 management and data analysis.

6 So since our first report actually in 2015, we
7 strongly recommended the Bureau delve deeply into its own data
8 sets in an effort to identify individuals and groups at risk of
9 problematic force decisions and other behavior problems.

10 Paragraph 117.

11 If patterns can be identified over time and across
12 multiple factors -- sometimes just looking at force doesn't
13 give you enough data -- then early intervention with people is
14 possible. It will save careers and help people and risk
15 management and all of that.

16 So we are encouraged by the Bureau's preliminary work
17 in this area. This year, they are doing some of this, and we
18 await those results. So we are looking forward to some of
19 that.

20 The Bureau has been responsive to our recommendation
21 to document both the process around sending these alerts out to
22 supervisors about problematic behavior and documenting the type
23 of supervisory action taken.

24 We recommend that the Bureau continue to track the
25 actions taken by supervisors, both for accountability purposes

1 and to build a database over time that can be used to evaluate
2 what types of interventions are most effective for what types
3 of behavior pattern.

4 THE COURT: Let me interrupt there. You mentioned
5 accountability. We just learned from Dr. Haines that the
6 effectiveness and success of training is also going to be
7 dependent upon an adequate system of accountability.

8 Do you agree or disagree with that? What's your
9 perception of how that is developing here?

10 DR. ROSENBAUM: I absolutely agree with that. I
11 think in the end, training is one of those things that sets the
12 stage. It hopefully gets people open to new ideas and teaches
13 them some skills, but they have to be reinforced the next day
14 out on the job.

15 First-line supervisors and their bosses are really
16 critical to set the tone about what is appropriate. But also
17 the Bureau has done -- I know that the new chief is into this,
18 and I know that the Bureau has done quite a bit lately to
19 develop these accountability systems, and so auditing these
20 force reports and giving the feedback through to chain of
21 command, "Hey, they are not filling these out right," or "This
22 seems out of policy. Check with this guy and see why this
23 happened. Also, let's get back that to the training academy,
24 because that shouldn't happen again." That kind of stuff is
25 going on.

1 There is also the accountability that involves IPR
2 and the independent review and all of that. I just talked
3 about that. So absolutely it all has to be connected. This
4 organizational behavior is all linked together -- leadership
5 and supervision and training and accountability and all that.

6 For officer accountability, our monitoring focuses on
7 two key elements of the agreement: The due process during the
8 administrative investigation and enhanced civilian oversight.
9 This is a work in progress, as you know. There are several
10 serious efforts in the City to improve accountability,
11 including changes to the City Code regarding administrative
12 investigations.

13 In addition, the Police Bureau, the City, the
14 Independent Police Review, DOJ, and the COCL have engaged
15 discussions of directive 333 to ensure that both the Police
16 Bureau and IPR policies are consistent. So the background for
17 due process or any accountability system has been laid, in our
18 opinion, particularly with the changes that allow investigating
19 entities to recommend findings.

20 However, we continue to see a high percentage of
21 cases, roughly two-thirds, that exceed the 180-day timeline
22 when the case involves a full investigation. When it doesn't,
23 they go pretty quickly. But that can leave both officers and
24 community members without an expeditious resolution and
25 possibly these feelings -- the delays can lead to distrust in

1 the process, as you know, about how justice works and may have
2 an impact on their perceptions on whether it is fair.

3 In the end, we believe that fairness is more
4 important than timeliness. I think that's why the CRC has been
5 freed up and all that. So those things can be in conflict. I
6 don't think you should just blindly say that this is what it
7 has to be.

8 In terms of enhanced civilian oversight, IPR, the
9 Independent Police Review, has dramatically increased the
10 number and type of cases that it has independently investigated
11 in the past couple of years. For example, only two cases were
12 independently investigated in 2014, and 2016 it was 29 cases.

13 Although the IPR caseload has increased, DOJ and the
14 COCL have expressed concern about whether the IPR staff had
15 been adequately trained to conduct investigations of the
16 police. In response to that, IPR and the Bureau's Internal
17 Affairs have worked together jointly to develop a training
18 agenda. In February, there was training by an outside group.
19 We were not that happy with that training. It got mixed
20 reviews. It missed some things, but they responded to that.
21 So they came back -- in fact, this week -- I think the training
22 was yesterday. There was training this week where they filled
23 in some of those gaps and they've done it with -- and we were
24 very pleased with that -- the people on our team who went
25 there.

1 Lastly, I just want to say a few words about
2 community engagement; probably it's the most sensitive topic
3 here today. Of course, the City is expected to create an
4 enhanced system of community engagement around the settlement
5 agreement, and the Police Bureau is also expected, as you
6 recall, to make additional community outreach efforts to
7 promote confidence in the Bureau and facilitate
8 community-police relations.

9 In our last report we did take time to provide a
10 detailed comparison between the Police Committee on Community
11 Engaged Policing, PCCEP, and the original Community Oversight
12 Advisory Board, COAB.

13 The City Attorney, Tracy, has already made a detailed
14 assessment of that, and so have others. I'm not going to go
15 into that except to say we did conclude -- and if you look at
16 our chart, the two models were pretty comparable, and the new
17 one incorporated a lot of the core elements of the original.
18 It has even gone further in some ways.

19 I mean, the fact that a year has been lost is a whole
20 other issue. I think if the judge -- if you -- Your Honor, if
21 you approve this independent of them, we're happy to include
22 that in our assessment in the future, whether we feel the City
23 is being responsive to that.

24 THE COURT: And that's the direction I am going in.
25 I think that would be a good idea. We can talk about that this

1 October. One of the concerns I have obviously is: Are we
2 going to have the same problems with the PCCEP that we had with
3 the COAB? I think we will see how that develops.

4 DR. ROSENBAUM: You will have to see. Everybody has
5 got their opinion about what went wrong the first time, and I
6 don't want to tell my story. There is enough blame to go
7 around to everybody. I think from those lessons hopefully we
8 can all learn something. I hope so. I am optimistic.

9 So the Police Bureau has done a number of things to
10 build police-community relations. You can go to their website
11 and see some of the stuff they have done. One example that we
12 think was important, the Bureau has introduced sort of a
13 multistage policy review process to gather input from community
14 members when revising their directives. They post them, they
15 see input, and they post them again.

16 Finally, despite the dissolution of the COAB, the
17 COCL team at least continued to seek input from community
18 members through surveys, through town halls, through electronic
19 comments on draft reports. If you haven't commented yet, I
20 encourage you. You have until the end of the month, I believe.
21 We held a town hall last night that I thought went really well
22 with some excellent discussion and input from community
23 members.

24 In the past reports -- in the meantime, trying to
25 fill the gap of the past year, we worked with AMAC to hold

1 panel discussions, including community leaders on panels, and
2 we just want to thank the AMAC for providing leadership and
3 helping to maintain a community voice during 2017.

4 Now, I just want to introduce Dr. Tom Christoff, who
5 will talk about the first quarter report on mental health
6 responses. Then I am going to just step up and make a couple
7 of closing comments.

8 THE COURT: Very good. Thank you, Dr. Rosenbaum.

9 Welcome, Dr. Christoff.

10 MR. CHRISTOFF: Good afternoon, Your Honor. May it
11 please the Court, my name is Tom Christoff with the COCL team.
12 I will try to be mindful of the Court's time.

13 THE COURT: I'm fine staying here until midnight if
14 that's what you all want.

15 MR. CHRISTOFF: All right.

16 THE COURT: I think I just terrified most of the
17 people here.

18 MR. CHRISTOFF: At the beginning of this month, we
19 released our draft report on Sections V and VI of the
20 settlement agreement, which evaluates the implementation of
21 that agreement as well as the system's mental health response
22 that are created by the implementation.

23 In our report we also evaluate the strength of the
24 City's effort in implementing the agreement. So I'll now just
25 give a brief summary of the progress that's reflected in our

1 report.

2 For Section V of the agreement, it lays out
3 expectations of city partners in the improvement of
4 community-based mental health services. For this section we
5 assess the City's contribution and effort in this area with the
6 understanding they are not the primary driver for
7 community-based mental health service delivery.

8 For this section we believe that PPB has demonstrated
9 a desire to work with such partners on improving mental health
10 response. PPB either oversees or participates on a number of
11 committees and workgroups. These include the Behavioral Health
12 Advisory Committee, the Behavior Health Coordination Team, the
13 Unity Transportation Work Group, and the Oregon Behavioral
14 Health Collaborative.

15 PPB has also previously participated in a health
16 share subcommittee and is currently partnering with researchers
17 at Portland State to obtain input from mental health service
18 delivery partners within the City.

19 Given their participation in such groups, the efforts
20 of the City and PPB indicate to us that there is a high level
21 of organizational importance and priority put into this area.

22 THE COURT: Let me ask you this: Predictability is a
23 value, so I'm sure you can predict my next two questions.

24 MR. CHRISTOFF: Yes, sir.

25 THE COURT: Do you know of any way or is there any

1 tracking of the number of folks that get transported to the
2 Unity Center but then later get re-transported to jail?

3 MR. CHRISTOFF: I apologize for somewhat repeating
4 the comments of previous people, but at this point I don't
5 know, and I would have to get back to the Court.

6 THE COURT: And I look forward to the parties working
7 together and getting back to me on that.

8 Does the compliance officer, the COCL team, have any
9 opinions on whether or not the Unity Center for Behavioral
10 Health is adequately funded?

11 MR. CHRISTOFF: At this point we wouldn't be able to
12 give a straight answer to that question, sir.

13 THE COURT: Thank you.

14 MR. CHRISTOFF: I'll now turn to Section VI of the
15 agreement, which is crisis intervention. As noted in prior
16 reports of ours, many of the paragraphs in this section have
17 been substantially complied with for some time now. For other
18 paragraphs we believe that the effort of PPB and the City
19 within the last year have brought them into compliance with
20 this report.

21 For instance, the Behavioral Health Unit now
22 regularly manages the sharing and utilization of data to
23 decrease law enforcement interactions. One example of this is
24 the sharing of data with the Multnomah County Crisis Line,
25 including all individuals referred through the BRS system, as

1 well as instances where delayed engagement or disengagement has
2 occurred.

3 By sharing this data MCCL can provide outreach and
4 service linkage. PPB has also used data on mental health
5 context to inform their own organizational practices, most
6 recently employing a strategy to make BRS referrals for persons
7 who have been the subject of three or more mental health
8 templates within the preceding 30 days.

9 We continue to believe that the work performed by the
10 Behavior Health Unit Advisory Committee, the BHUAC, is
11 substantially responsive to the requirements of the settlement
12 agreement. BHUAC are representatives from city, county, and
13 state agencies, as well as local service providers, CCOs, and
14 advocates. Through their meetings, the BHUAC has provided
15 numerous recommendations to the City and PPB, some of which
16 have been incorporated; others of which have not. However, the
17 BHUAC regularly receives feedback on such recommendations.

18 For all officers we believe that the training that
19 has been received has been well developed and delivered. All
20 officers within the Portland Police Bureau receive 40 hours of
21 crisis response training, and also crisis response is a part of
22 each year's annual in-service training.

23 ECIT officers also receive an additional 40 hours.
24 On top of this, ECIT officers recently went through a ten-hour
25 refresher training, which we also feel was well delivered. In

1 response to Your Honor's question about persons on the autism
2 spectrum, that was included in the ten-hour in-service
3 refresher training for ECIT officers.

4 THE COURT: Thank you.

5 MR. CHRISTOFF: Other teams within the PPB also
6 appear to be functioning as intended by the settlement
7 agreement, including the Behavioral Health Response Team and
8 the Service Coordination Team. We have found that these teams,
9 not only conform to the language of the settlement agreement,
10 but also we've evaluated outcome data associated with them that
11 suggest a positive impact for these teams. For instance, we
12 observed decreases in the mean number of arrests and custodies
13 after BHRT intervention compared with prior to BHRT
14 intervention. Similarly, participation in SET was associated
15 with decreases in arrest and custody. Our complete evaluation
16 of these teams is found in our draft report.

17 The Bureau of Emergency Communications have also
18 largely fulfilled their obligations under the settlement
19 agreement, including creating policies and implementing
20 training in order to triage calls related to mental health
21 crisis.

22 Based on the above information, between Sections V
23 and VI, we found that 25 of the 28 paragraphs have been
24 substantially complied with. However, we find three paragraphs
25 within Section VI wherein the City and PPB would need to meet

1 certain criteria as conditions of substantial compliance.

2 First, as has been noted by others, the City has
3 recently expanded the criteria for dispatching ECIT officers
4 based on their own evaluation, which has demonstrated capacity
5 for expansion as well as an outcome-based rationale for
6 expansion. For this, the City has demonstrated commitment to
7 expanding the criteria, revising directives, training BOEC
8 call-takers and dispatchers, and performing a follow-up
9 evaluation.

10 Next, the City has identified issues with their
11 mental health interaction data collection tool, known as the
12 mental health template. PPB has already taken steps to include
13 the overall reliability of the data, but we will still need to
14 assess whether those steps have resolved the overall issues.

15 Finally, while we believe BOEC has demonstrated a
16 fully operational crisis triage system based on the prior ECIT
17 dispatch criteria, we will need to verify the continuation of
18 crisis triage performed with the recently revised criteria.

19 Thank you, sir.

20 THE COURT: Thank you, Dr. Christoff.

21 Back to you, Dr. Rosenbaum.

22 DR. ROSENBAUM: A couple of closing comments here
23 about reform and trying to share some information I have
24 learned over the years. We know from lots of research over the
25 years that reform is achieved by creating learning

1 organizations. This is something that -- I just want to say
2 that the settlement agreement should not be simply about
3 changing policies or practices to achieve compliance.

4 The settlement agreement talks about systems, and I
5 applaud those who put that terminology in there. We strongly
6 encourage Portland to think about having the right measurement
7 systems in place to monitor progress. I think we're getting
8 there. The shared expectation of the COCL, I think of DOJ, and
9 to some extent the community is that the Police Bureau and BOEC
10 and IPR and the other city agencies will continue -- that they
11 are going to continue to advance as learning organizations.

12 Now, one of the central features of a learning
13 organization is it continuously gathers data about itself from
14 its external environment, from its internal environment, and it
15 looks at both processes and impacts of its behavior, and it's
16 responsive to these data. So it is a feedback group.

17 So by receiving and processing its feedback from
18 employees and community members and by examining patterns in
19 use of force and non-enforced encounters with the public, and
20 especially with members of vulnerable populations, those living
21 in poverty, the houseless, those living with mental illness, as
22 well as racial and ethnic populations that have been
23 historically the victims of discrimination, by monitoring their
24 interactions with all these subgroups, the City has the
25 information necessary to continuously make adjustments and

1 improvements in the efficiency, effectiveness, and fairness of
2 police services long past the time of settlement agreement.

3 Since 2014, I think the Bureau has made significant
4 strides toward becoming a full-fledged learning organization by
5 recognizing, first, the importance of measurement and by
6 seeking to introduce new systems of auditing and evaluation.
7 We hope that trend continues and that the Bureau even adds
8 additional metrics such as the community satisfaction with
9 police services and police encounters.

10 Finally, just a couple of notes about sustaining
11 change and to create a community-oriented policing bureau. I
12 think that's beginning to fall into place, hopefully including
13 a PCCEP. I think now that the Bureau has new leadership at the
14 top, that's helpful.

15 Chief Danielle Outlaw comes to Portland with a very
16 strong resume and national respect from leaders in the field.
17 I have personally chosen to vet her in my own private time.
18 Our initial conversations with her suggests that she
19 understands what needs to be done and is beginning to introduce
20 critical changes, such as the deescalation and implicit bias
21 training to give examples.

22 A sustainable reform, as I alluded to earlier,
23 Your Honor, is more than top management. It is about
24 strengthening the capacity of middle management and supervisors
25 to redefine police culture for younger officers. It means

1 creating accountability systems where problematic employees are
2 identified and provided with remediation and where exemplary
3 employees are rewarded and held up as role models.

4 It means transparency with the public about ongoing
5 activities and incidents, where people can gain trust.
6 Sustainable reform means state-of-the-art, continuous training
7 of all employees with community participation in the training
8 process. I don't think we have said enough about that today,
9 and I think that is important. It means measuring what matters
10 to the public, such as respectful treatment and using these
11 data to strengthen a learning organization.

12 I will close with this one comment: I'm deeply
13 sensitive to the fact that this is a very difficult time in
14 American history to serve in the law enforcement profession,
15 and I admire those who take this on. During this time,
16 however, the police must remember that they are more than law
17 enforcement officers. They are public servants with a higher
18 calling to serve as the guardians to the most vulnerable,
19 protectors of life and civil liberties in a free society, and
20 keepers of the peace. The move from a warrior to a guardian
21 mentality takes time and commitment. We support them in the
22 pursuit of these complex missions and maintain that the reforms
23 introduced in Portland should be fair to both the police
24 officers on the street and members of the community.

25 Thank you.

1 THE COURT: Thank you very much, Dr. Rosenbaum.

2 All right. Before I give the parties my ruling on
3 the pending joint stipulated motion, let me ask if any counsel
4 or any parties have anything further to say at this time.

5 Mr. Vannier.

6 MR. VANNIER: Yes. Denis Vannier for the City. In
7 this instance I have been deputized to give the answer to the
8 substantive question about the request for referral to
9 Ninth Circuit mediation.

10 This is going to be an explanation and not a plea for
11 that provision. We did not come up with that. That was
12 suggested by the Ninth Circuit mediator. The parties felt
13 there was some value, if the parties ever wanted to go to
14 mediation, and to have a mediator that was familiar with the
15 case, because obviously this is a complex case.

16 What she told us was, "Well, I would need an order of
17 this sort." In fact, the language that you see in the joint
18 motion was run by her, and we asked was that something that
19 would work for you. That being said, the City has no strong
20 feelings about that. So if Your Honor is not comfortable with
21 that --

22 THE COURT: What I would rather do there is, if and
23 when a dispute arises for which all four parties believe that a
24 referral to the Ninth Circuit mediator would be appropriate,
25 well, then, fine, come to me at that time and ask for a

1 referral. I want to make sure that everyone is comfortable
2 with the terms of that referral so we don't have problems of
3 the sort that have been identified in the past referral, and
4 then we will talk our way through that.

5 MR. VANNIER: But in answer to your question, the
6 City has no objection to the Court dropping that provision. I
7 understand that the other parties agree.

8 THE COURT: Very good. Thank you.

9 Do the parties have any agreement on when in the week
10 of October 1st through the 5th they might be available?

11 MR. GEISLER: Your Honor, that week is fine for the
12 United States. I would ask, for the sake of travel, we avoid
13 either the Monday or Friday.

14 THE COURT: Tell me what you want. You can have
15 anything you want that week except Wednesday morning.
16 Wednesday morning I have a fairly full calendar.

17 MR. GEISLER: Thursday is fine with me.

18 MR. VANNIER: And the City is free all that week.

19 THE COURT: All right. Should we set another status
20 conference for Thursday, October 4th, 9:00 a.m?

21 Now that I've said that, Mary, we are free then?

22 THE CLERK: Yes.

23 THE COURT: All right. Thank you, Mr. Geissler.
24 Thank you, Counsel.

25 I have before me the joint stipulated motion to enter

1 the amended settlement agreement, Docket 157. The ruling is
2 that that motion is granted in part and denied in part. I am
3 going to follow the request and recommendation that
4 Mr. Geissler gave earlier today. I'll also ask the
5 United States to take the lead in preparing an appropriate
6 order consistent with that recommendation. I just would ask
7 that you draft an order, run it by the other three parties, so
8 all four parties can look at it as to form. Then provide it to
9 me through my courtroom deputy, preferably by email in Word
10 format. That's the easiest for me.

11 The essence will be, as you've described earlier,
12 Mr. Geissler, frankly, the only real concerns that I have, and
13 that's what is leading me to not at this time enter the amended
14 settlement agreement in full relates, one, to the referral of
15 the Ninth Circuit. We discussed that. Let's leave that out of
16 it.

17 Secondly and most significantly, the concerns about
18 community involvement, the COAB, and the new PCCEP concept. I
19 think we all recognize that the City is not in compliance and
20 has not for some time been in compliance with Section IX of the
21 settlement agreement that relates to the COAB. I recognize the
22 parties' diligent efforts in trying to fix that with this new
23 proposal and the proposed amendments to Section IX relating to
24 the PCCEP.

25 I don't know whether that will be sufficient to solve

1 this problem, but I right now am willing to give deference to
2 the four parties here and the hard work that you all have put
3 in to try to make this work. And so let's give that a try. So
4 with respect to Section IX issues, I will give that provisional
5 or conditional approval, subject to further evaluation by the
6 Court at our hearing on October 4th.

7 I give final approval to all other provisions that
8 the parties jointly request be made to the settlement agreement
9 and how it should be amended, and I'll leave the particulars
10 there to be set forth in a revised proposed order submitted by
11 the United States.

12 Are there any questions about what I have just ruled
13 or anything I need to clarify further?

14 Mr. Geissler or Mr. Hager?

15 MR. GEISLER: Nothing, Your Honor.

16 THE COURT: Anything further from the City?

17 MR. VANNIER: Nothing from the City, Your Honor.

18 THE COURT: From PPA?

19 MR. KARIA: No, sir.

20 THE COURT: And from AMAC?

21 MS. ALBIES: No, Your Honor.

22 THE COURT: Is there anything else that any other
23 party would like to address at this hearing; otherwise, I will
24 have a final word or two. But anything else we should address
25 at this hearing?

1 MR. GEISSLER: No, Your Honor.

2 THE COURT: All right. Then I thank all the parties
3 for their hard work in getting us to this point. I do note
4 that the problems that we are facing and that the settlement
5 agreement is trying to address were not created overnight, and
6 they will not be solved overnight. But I recognize the hard
7 work and the good faith that all four parties are putting into
8 this.

9 I also recognize and appreciate the work of the COCL.
10 Dr. Rosenbaum, you and your team are putting in a lot of work.
11 You have a lot of expertise, and I recognize your contributions
12 and the good-faith contributions contributed by your team.

13 I also very much appreciate the public input as part
14 of this process. As you can understand from my order, I do
15 think that community involvement is a very important piece to
16 this solution. I know that the parties here recognize that as
17 well. That's why they built in Section IX, and that's why they
18 are now trying to address the problems and deficiencies that we
19 have experienced with a new approach. Community involvement is
20 going to be an important part of this answer.

21 I also recognize and appreciate all of the efforts
22 that have been made by the Portland Police Bureau, including
23 the comments that we heard today from Chief Outlaw, and I wish
24 the best of luck, quite sincerely, in this very important
25 effort.

1 As I said in the very beginning, it was just a
2 coincidence of seeing the naturalization ceremony. We have a
3 lot of problems in this country. Everybody recognizes it. We
4 all may not agree on what those problems are. Some people may
5 see some things as problems and other things as strengths, but
6 it is not perfect. The Preamble to our Constitution recognizes
7 that.

8 Our Constitution is designed to create a more perfect
9 union. That is a recognition that we didn't start with a
10 perfect union. We still don't have a perfect union, but we are
11 all working together to create a more perfect union. Everyone
12 is working together to try to improve the situation for
13 everyone living among us. And frankly, that's all we can do.
14 It is not our obligation or even within our ability to solve
15 all the problems, but it is our obligation continuously to try
16 to work to make things better.

17 I appreciate all of the hard work and good faith that
18 everyone has put in. And I understand why so many people want
19 to come to the United States and become citizens. To repeat
20 myself: If you haven't seen a naturalization ceremony in this
21 courthouse, you should sometime. They are a beautiful sight.
22 They are beautiful ceremonies.

23 We will be in recess until October 4th, 2018, 9:00
24 a.m. in this courtroom.

25 Thank you.

1 COUNSEL: Thank you, Your Honor.

2 (End of proceedings.)

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I certify, by signing below, that the foregoing is a correct transcript of the record of proceedings in the above-entitled cause. A transcript without an original signature, conformed signature, or digitally signed signature is not certified.

/s/ Dennis W. Apodaca
DENNIS W. APODACA, RDR, RMR, FCRR, CRR
Official Court Reporter

May 17, 2018
DATE

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